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MEETING

STATE OF CALIFORNIA

INTEGRATED WASTE MANAGEMENT BOARD

JOE SERNA JR., CALEPA HEADQUARTERS BUILDING

1001 I STREET

COASTAL HEARING ROOM

SACRAMENTO, CALIFORNIA

WEDNESDAY, JANUARY 23, 2008

9:41 A.M.

JAMES F. PETERS, CSR, RPR  
CERTIFIED SHORTHAND REPORTER  
LICENSE NUMBER 10063

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

APPEARANCES

BOARD MEMBERS

Ms. Margo Reid Brown, Chairperson  
Mr. Jeffrey Danzinger, Vice Chairperson  
Mr. Wesley Chesbro  
Ms. Rosalie Mul  
Ms. Cheryl Peace  
Mr. Gary Petersen

STAFF

Mr. Mark Leary, Executive Director  
Ms. Julie Nauman, Chief Deputy Director  
Mr. Elliot Block, Chief Counsel  
Mr. Mark de Bie, Chief, Permitting & LEA Support Division  
Mr. Michael Bledsoe, Staff Counsel  
Mr. Harllee Branch, Staff Counsel  
Mr. Robert Carlson  
Mr. Michael Chen  
Ms. Tracey Cottingim, Administrative Assistant  
Ms. Cynthia Dunn  
Ms. Tamar Dyson, Staff Counsel  
Mr. Tom Estes, Deputy Director, Administration & Finance  
Division  
Ms. Mindy Fox, Assistant Director, Office of Education and  
the Environment

APPEARANCES CONTINUED

STAFF

Ms. Kathy Frevert

Ms. Kristen Garner, Executive Assistant

Ms. Renee Lawver

Mr. Howard Levenson, Program Director, Sustainability Programs

Mr. Jon Myers, Assistant Director, Office of Public Affairs

Mr. Trevor O'Shaughnessy, Supervisor, Jurisdiction Compliance & Audit

Mr. Ted Rauh, Program Director, Waste Compliance and Mitigation Program

Ms. Brenda Smyth, Chief, Statewide Technical & Analytical Resources Division

Ms. Lorraine Van Kekerix, Chief, Compliance, Evaluation & Enforcement Division

Mr. Clark Williams, Supervisor, Climate Change & Technical Research Section

ALSO PRESENT

Mr. Gene Dupreau, Waste Connections Inc.

Mr. George Eowan, California Refuse Removal Council

Mr. Chuck Helget, Allied Waste

Mr. Blair Johnson, Waste Connections Inc.

Mr. George Larson, Waste Management

Mr. Bill Magavern, Sierra Club of California

Mr. Mike O'Grady, City of Cerritos

Mr. Greg Shipley, BioEnergy Producers Association

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APPEARANCES CONTINUED

ALSO PRESENT

Mr. Joe Sloan, SloanVasquez

Mr. Michael Theroux, Theroux Environmental

Mr. Peter Weiner, Paul Hastings, LLP

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1 PROCEEDINGS

2 CHAIRPERSON BROWN: Good morning. Welcome to the  
3 January Board Meeting of the Integrated Waste Management  
4 Board.

5 I'd like to remind you to turn your cell phones  
6 off. There are speaker slips and agendas in the back of  
7 the room.

8 And request that Kristen call the roll.

9 BOARD SECRETARY GARNER: Chesbro?

10 BOARD MEMBER CHESBRO: Here.

11 BOARD SECRETARY GARNER: Danzinger?

12 VICE CHAIRPERSON DANZINGER: Here.

13 BOARD SECRETARY GARNER: Mulé?

14 BOARD MEMBER MULÉ: Here.

15 BOARD SECRETARY GARNER: Peace?

16 BOARD MEMBER PEACE: Here.

17 BOARD SECRETARY GARNER: Petersen?

18 BOARD MEMBER PETERSEN: Here.

19 BOARD SECRETARY GARNER: Brown?

20 CHAIRPERSON BROWN: Here.

21 Any ex partes to report?

22 Okay. We'd like to ask everybody to stand for  
23 the Pledge of Allegiance.

24 (Thereupon the Pledge of Allegiance was

25 Recited in unison.)



1           CHAIRPERSON BROWN: Thank you.

2           And I think we're going to go first to Mark Leary  
3 for the Executive Director's report.

4           Mark.

5           EXECUTIVE DIRECTOR LEARY: Thank you, Madam  
6 Chair. Good morning. Good morning, members.

7           A couple of items -- substantive items I need to  
8 report on.

9           As we all remember, last October and into the  
10 winter, southern California fires devastated southern  
11 California. And as a result of those activities a number  
12 of the solid waste management facilities within the region  
13 requested emergency waivers.

14          I need to report to you the extent of those  
15 emergency waivers. And I will not go into great detail.  
16 Although a very large number of facilities have modified  
17 their tonnage, their hours, to compensate and to allow for  
18 the acceptance of materials from the southern California  
19 fires over the last several months.

20          I think what would -- the best way, rather than  
21 to go into all the detail, I will offer to you the staff  
22 summary to me of the status of those waivers. Most of  
23 them go for about 120 days or generally to around the end  
24 of February. So they're currently in place.

25          Our review and the staff's review of those

1 waivers, they seem very appropriate, they don't need to be  
2 changed. We're not going to offer any resistance or any  
3 suggestion for improvements. I think they're appropriate  
4 response to the state of emergency, and they granted  
5 effectively and appropriately by the LEAs.

6           So I will forward to you after the Board meeting  
7 today the summary of those waivers. And if you'd like to  
8 discuss them further, I think Ted or his staff or I would  
9 be happy to do that for you.

10           Secondly, I wanted to bring to everyone's  
11 attention the recent release of the hard work done again  
12 by Ted and his staff and Elliot Block of the conversion  
13 technology regulatory guidance document that is on the  
14 Board's web page now. I think it's annotated on the front  
15 page. And I think it offers some clarity around what has  
16 been somewhat of a confused regulatory setting. And I  
17 just offer that for everyone's information. And if you're  
18 interested, please tune in.

19           A couple of personnel changes within the  
20 Permitting -- well, one personnel change and one  
21 appointment that I'd like to report on.

22           John Bell is going to be leaving us here for a  
23 special assignment that we've volunteered him, and he's  
24 accepted with great energy and accomplishment.

25           The enforcement initiatives run out of Cal EPA

1 and at the direction of Secretary Adams had many policy  
2 and program recommendations over the last couple of years.  
3 Among them is the development of training teams to enhance  
4 all of Cal EPA's enforcement programs and enforcement  
5 training. Among the initiative recommendations was the  
6 development of these training teams and the provision by  
7 each of the boards, departments and offices to provide an  
8 experienced staff person to participate in development of  
9 the training. We thought that John Bell would be our best  
10 representative. And it's with a sense of loss but a great  
11 expectation as John accepted this assignment and will  
12 represent us now over the coming months to participate in  
13 the development of training.

14           We support -- wholeheartedly support Cal EPA's  
15 initiative in this area and think that the formal  
16 development of training in the enforcement area will work  
17 to each of the board's, department's and office's  
18 effectiveness individually and collectively. There'll be  
19 more opportunities to collaborate among the BDOs and work  
20 together on the various kinds of enforcement initiatives  
21 and enforcement activities.

22           So we really appreciate John's willingness to do  
23 this for us. I think we'll be well represented.

24           So congratulations to John and great selection by  
25 Ted and his team.

1           And then lastly, Mark de Bie out of Ted's office  
2 and Permitting and Compliance has been selected to  
3 represent California in Region 9 as a member of the board  
4 of directors for the Association of State and Territorial  
5 Solid Waste Management Officials, otherwise known as  
6 ASTSWMO. And for those of you who don't -- are not  
7 familiar with ASTSWMO, ASTSWMO is the principal  
8 organization that works collaboratively with the U.S.  
9 Environmental Protection Agency and represents a  
10 consolidation of folks from all the states and territories  
11 in their solid waste efforts.

12           Mark will be representing all of Region 9 -- all  
13 of U.S. EPA Region 9, which is the western United States.  
14 And sitting on the Board he'll have influence in shaping  
15 U.S. EPA's policy and program initiatives and federal  
16 legislation on our behalf and on the behalf of Region 9.

17           So I want to congratulate Mark for his  
18 appointment to the ASTSWMO Board. And we'll all rest  
19 assured that we'll be well represented in federal  
20 discussions with the states into the future.

21           With that, Madam Chair, I'll conclude my  
22 Executive Director's report, recognizing that you'll be  
23 coming back to me shortly for a presentation on 2007, a  
24 Year in Review.

25           CHAIRPERSON BROWN: Thank you, Mark. Appreciate

1 that. And, yes, we will come right back to you.

2 We have a brief special presentation today that  
3 will be made by Member Mulé.

4 Rosalie.

5 BOARD MEMBER MULÉ: Thank you, Madam Chair.

6 I'd like to call up -- we have Gene Dupreau here  
7 and Blair Johnson, if you could come up.

8 Madam Chair, this is a resolution that we're  
9 presenting to Waste Connections, Inc. And for those of  
10 you who don't know, Waste Connections is a full service  
11 solid waste and recycling company headquartered here in  
12 California.

13 Why don't you come on up.

14 I've had the opportunity to work with the  
15 President of Waste Connections many, many years ago when  
16 he was at BFI. And so they just celebrated their 10th  
17 anniversary back in September. And they just passed or  
18 made their billion dollar mark in annual revenue. And so  
19 it's really quite an accomplishment that we have a company  
20 headquartered here in California that's doing its part to  
21 manage our resources wisely and while also fueling that  
22 economic engine that's so important here in California.

23 So with that, I'm going to present this to you  
24 and I'm just going to read a couple excerpts. So if you  
25 just want to hold on to that.

1               "Whereas the California Integrated  
2               Waste Management Board recognizes Waste  
3               Connections, Inc., as a leading provider  
4               of waste and recycling services, serving  
5               approximately 2.3 million customers in  
6               24 states since 1997; and

7               "Whereas Waste Connections achieves  
8               great success by becoming the fourth  
9               largest solid waste recycler in the  
10              United States and the largest solid  
11              waste company in the country which  
12              focuses on rural and suburban market  
13              areas; and

14             "Whereas the State of California is  
15             proud to have Waste Connections as the  
16             largest solid waste and recycling  
17             services company headquartered here in  
18             our great State of California; and

19             "Whereas Waste Connections is  
20             currently only 1 of 64 New York Stock  
21             exchange public companies headquartered  
22             in the State of California.

23             "Now, Therefore, Be It Resolved that  
24             the California Integrated Waste  
25             Management Board takes great pride in

1           recognizing Waste Connections, Inc., and  
2           its 5200 employees for their dedicated  
3           service to the people of the State of  
4           California over the past ten years; and  
5           "Be It Further Resolved that the  
6           California Integrated Waste Management  
7           Board applauds Waste Connections, Inc.,  
8           for its role in protecting California's  
9           environment and conserving landfill  
10          space through the collection and  
11          recycling services it provides, as well  
12          as its demonstration that the economy  
13          and the environment can work together  
14          productively to preserve our environment  
15          and protect public health and safety."  
16          So with that, congratulations and thank you very  
17 much.

18           (Applause.)

19          MR. DUPREAU: I would just like to, well, number  
20 one, say that I'm honored to accept this for the company.  
21 But I want to let you all know that the only thing that  
22 would keep Ron away from this is having a cast and being  
23 in a wheel chair. He's had a little bit of a skiing  
24 accident, so he's going to be out of commission for a few  
25 weeks at least. So that's why he's not here today to

1 accept.

2 Thank you very much.

3 CHAIRPERSON BROWN: Thank you.

4 BOARD MEMBER MULÉ: Thank you, Madam Chair.

5 CHAIRPERSON BROWN: Thank you.

6 Now, as previously anticipated or mentioned,

7 Mark. The year in review.

8 EXECUTIVE DIRECTOR LEARY: Thank you, Madam

9 Chair.

10 (Thereupon an overhead presentation was

11 Presented as follows.)

12 EXECUTIVE DIRECTOR LEARY: 2007 was a very good

13 year for the Integrated Waste Management Board. And I

14 have a series of accomplishments I'd like to report on

15 you. I really am enjoying the tradition that's started to

16 being created here at the Board, to take every January a

17 few moments out of the Board's calendar to take a look

18 back and celebrate our successes a little bit.

19 I apologize for the folks in the audience who

20 aren't so interested in us patting ourselves on the back,

21 but not really.

22 (Laughter.)

23 EXECUTIVE DIRECTOR LEARY: I'm not all that

24 apologetic at all because I think it's a valuable time.

25 And I know the Board supports and actually suggested that



1 to me, that we continue to do this on a regular basis.

2 I'll go through a series of accomplishments. And  
3 I with purpose do not mention any names. And I think -- I  
4 do that out of recognition for all of our organization,  
5 all of our staff who contributed to this. Because if you  
6 start mentioning names, you risk leaving somebody out, and  
7 I certainly don't want to do that. Because ultimately the  
8 whole organization contributes to these successes.

9 I do want to make a special note to an  
10 organization that doesn't get much attention, and that's  
11 our Administrative Services Division. That group is the  
12 backbone of our organization. And all of our great  
13 programmatic activities wouldn't occur without their  
14 support and continued due diligence to support our budget  
15 efforts, to support our personnel efforts, to do the  
16 accounting and all the nuts and bolts, unglamorous things  
17 behind the scenes that need to occur; IT in particular.  
18 So, anyway, I want to make a special mention of that.

19 You start any year in review with a discussion I  
20 think of climate change.

21 --o0o--

22 EXECUTIVE DIRECTOR LEARY: The Board through  
23 Governor Schwarzenegger has drawn great attention to  
24 climate change here in the State of California. And we,  
25 the Board, have done our part I think to try to affect

1 climate change in the reduction of greenhouse gases

2 pursuant to AB 32.

3           We've estimated generally that about 4 million  
4 metric tons of carbon dioxide equivalence have occurred as  
5 a result of diversion and other activities mitigating  
6 waste and moving waste, diverting waste from the  
7 landfills.

8 In 2007 the Board began a life cycle assessment  
9 of organic materials management in an effort to quantify  
10 these greenhouse gas reductions. We've identified for the  
11 climate action team a strategy that identifies landfill  
12 methane capture to achieve potentially 3 million metric  
13 tons of carbon dioxide equivalent by 2020.

14           We've participated in three climate action team  
15 subcommittees and chaired one group of our own to identify  
16 strategies to reduce greenhouse gas emissions.

17           And we've also provided a lot of very detailed  
18 information about the volume of waste contained within  
19 California's landfills to assist in the development of the  
20 greenhouse gas inventory conducted by the Air Board.

21           Our work on climate change initiative is  
22 something we're all very proud of and we'll continue to  
23 participate and be successful, we hope, in the future.

24 --o0o--

25 EXECUTIVE DIRECTOR LEARY: Speaking of numbers,

1 2007 we proclaimed 2006 a year of 54 percent achieved.  
2 The dramatic acceleration of the diversion rate over the  
3 years is attributable to the hard work of our staff but,  
4 more importantly, the local jurisdictions and the solid  
5 waste management industry, as we've all striven to reach  
6 the 50 percent 939 mandate and move beyond.

7           The increase of 2 percent over the year  
8 previously resulted in 4 million tons from the previous  
9 year being diverted through the successful partnership.  
10 And this is in face of the fact that California's total  
11 employment increased by 1.9 percent, construction  
12 employment increased by 5 1/2 percent, and the overall  
13 population increased by 1.1 percent. Good work, as  
14 always.

15                               --o0o--

16           EXECUTIVE DIRECTOR LEARY: The Waste Board  
17 demonstrated its dedication to the protection of the  
18 environment as it responded to the Angora fire last spring  
19 and summer.

20           We received praise and much gratitude as we led  
21 the debris removal and cleanup effort following the Angora  
22 fire and in the interests of Governor Schwarzenegger's  
23 mission to protect Lake Tahoe, the jewel of the Sierras.

24           The Angora model, as it is now called, was  
25 essential in protecting Lake Tahoe from the hazardous

1 substance released from the debris.

2 --o0o--

3 EXECUTIVE DIRECTOR LEARY: Within an  
4 unprecedented six weeks the Board has completed the  
5 removal -- had completed the removal and proper recycling  
6 disposal of 60,000 tons of debris, addressing all 257  
7 properties. And by October 23rd all erosion control  
8 measures were in place.

9 You can see kind of a before and after, the  
10 before being the bottom right, and how quickly the homes  
11 have come back.

12 --o0o--

13 EXECUTIVE DIRECTOR LEARY: That model was then  
14 extended into southern California, really unfortunately  
15 that it had to be extended. But because of our work at  
16 Angora, we were ready to respond and assist the local  
17 jurisdictions as they attempted to implement the Angora  
18 model. And our staff were present working alongside the  
19 local folks in southern California to help them embrace  
20 the Angora model and come to appreciate the sophistication  
21 and efficiency that the one contractor, one debris removal  
22 cleanup effort brings to a large scale fire like this one.

23 --o0o--

24 EXECUTIVE DIRECTOR LEARY: Another area of  
25 positive activity was our E-waste program. Last week you

1 heard about the many successes of the program and the many  
2 challenges that comes with resounding success, as we  
3 foster within California an efficient collection  
4 infrastructure for electronic waste.

5           The program currently involves nearly 600  
6 approved participants and has fielded payment claims  
7 totaling nearly \$170 million to date, representing the  
8 handling and recycling of approximately 350 million pounds  
9 of covered electronic waste.

10                   Complementing this extensive recovery network is  
11 a successful public information effort anchored by our  
12 ERECYCLE.org website. Throughout partnerships with  
13 manufacturers, retailers, and recyclers, the Erecycle.org  
14 campaign has reached consumers via numerous earned media  
15 segments; point-of-purchase displays; and nearly 75,000  
16 air plays of public service announcements, with an  
17 estimated in-kind value of approximately three and a half  
18 million dollars.

19 --o0o--

20 EXECUTIVE DIRECTOR LEARY: As the Waste Board  
21 looks to the future and prepares for the next generation,  
22 we've been heavily engaged, as you know, in the education  
23 in the environment initiative. We demonstrate our  
24 commitment to our kids and the great achievements of our  
25 own initiative by affecting the curriculum -- or proposing

1 to affect the curriculum into the future. Over a half of  
2 the 150 curriculum units are at some stage of the  
3 development process. A rigorous and in-depth review  
4 system for each and every curriculum unit is in place.  
5 It's been a great year for our development of the EI and  
6 we look forward to a productive year into the future.

7 --o0o--

8 EXECUTIVE DIRECTOR LEARY: An area of progress  
9 that we should take great pride in, I think, and has  
10 really affected the effectiveness of our organization, and  
11 that's the adoption of governance policies and strategic  
12 directives. As the Chair and the Board have led the  
13 development early last year, we ventured into a new  
14 territory for this type of comprehensive delineation of  
15 the role of the Board, my role as your Executive Director,  
16 and how the Board and staff interact to work together.

17 The result of this collaborative effort lead the  
18 Board members to develop and adopt the governance policies  
19 which define the organization's internal responsibilities,  
20 and so the Board members can devote more of their time and  
21 resources to the policy issues and broader program  
22 objectives. The Board's staff linkage policies adopted  
23 and clarified our relationship between the Board and the  
24 staff.

25 But most importantly, the Board has defined a

1 clear set of objectives and priorities in the strategic  
2 directives, which provide direction to us, your staff, as  
3 well as our policy -- as well as our stakeholders in  
4 clearly identifying what our priorities are.

5 As I go forward, I'll highlight some of our  
6 efforts that have taken place over the last year in  
7 response to these strategic directives.

8 --o0o--

9 EXECUTIVE DIRECTOR LEARY: First and foremost I  
10 think is the extended producer responsibility effort that  
11 was led as a result of the creation of Strategic Directive  
12 5. We've held informational workshops throughout --  
13 during the year. And we adopted the framework -- you  
14 adopted the framework, at the staff's suggestion and  
15 proposal, for this overall policy priority to guide  
16 proposals to receive ultimately some statutory authority  
17 into the future.

18 In November we held a consultation workshop and  
19 we continue to refine the framework, as we did again this  
20 month.

21 --o0o--

22 EXECUTIVE DIRECTOR LEARY: As part of the  
23 implementation of Strategic Directive 6.1, The Board held  
24 an organic summit in October to gather stakeholder input  
25 on how to affect organic diversion from landfills. We've

1 adopted organics policy road map. We continue to work on  
2 these specifications and outreach with CalTrans in the  
3 agricultural sector. We've participated in cross-media  
4 rule-making with several AQMDs and regional water boards  
5 that impact compost and mulch. We continue to recognize  
6 the potential role of conversion technologies in diverting  
7 organics, and sponsored a biofuels workshop for MSW in  
8 March.

9 A workshop in July, we did bioenergy and biofuels  
10 activities and had a presentation from UC Davis on  
11 producing hydrogen from landfill gas.

12 In August we approved a contract for research in  
13 the demonstration project for biofuels and bioenergy. And  
14 most recently we released that guidance document that I  
15 mentioned earlier that will provide it some clarity around  
16 the regulations involving conversion technologies.

17 --o0o--

18 EXECUTIVE DIRECTOR LEARY: In the compliance  
19 arena, as a result of the strategic directives, we've  
20 developed a framework for the new Compliance Evaluation  
21 Enforcement Division. Strategy was developed with input  
22 from the LEAs and focuses on area where there's facilities  
23 chronically violating state minimum standards, or state  
24 minimum standards are not being adequately stressed,  
25 multiple enforcement orders have been issued to facilities



1 and inspections are now -- or were not being conducted  
2 pursuant to the statutes and regulations.

3 --o0o--

4 EXECUTIVE DIRECTOR LEARY: In the financial  
5 assurance area, we've made tremendous progress in  
6 maintaining -- moving landfills beyond the 30 years cost  
7 for potential corrective actions as in response to  
8 Assembly Bill 2296. And we completed the major study on  
9 financial assurance.

10 Staff report provide an analysis and  
11 recommendations for long-term post-closure maintenance and  
12 corrective action for financial assurance in landfills.  
13 In fact, we funded and led the study to identify potential  
14 long-term threats conducted by ICF and reported on that to  
15 the Board, which resulted in the development of a  
16 methodology that could evaluate individual's landfill's  
17 risk for possible use and overall assessment of financial  
18 assurance.

19 Also, in accordance to AB 2296, the Board adopted  
20 regulations in December that required closure and  
21 post-closure maintenance costs for solid waste landfills  
22 based on reasonably foreseeable costs for the state.

23 --o0o--

24 EXECUTIVE DIRECTOR LEARY: As we move forward,  
25 potential unfunded liabilities through 2050 total \$600

1 million if left undealt with.

2 --o0o--

3 EXECUTIVE DIRECTOR LEARY: We continue to work  
4 strongly with our partnerships, the LEAs, as an important  
5 element to our success. Training to LEAs has been  
6 provided throughout the year on a host of topics,  
7 including state minimum standards, landfill gas planning,  
8 clandestine drug labs, pesticide hazards. This  
9 interaction and partnership culminated in the 10th annual  
10 conference where we had 750 participants from the LEA  
11 community and an additional 250 attendees at the  
12 conference.

13 Illegal dumping was a big effort over the past  
14 year. We have great support from the Illegal Dumping Task  
15 Force to define solutions to California's illegal dumping  
16 problem. The task force developed 24 recommendations  
17 dealing with programmatic fiscal and legislative changes  
18 that will enable local government to better address this  
19 problem.

20 --o0o--

21 EXECUTIVE DIRECTOR LEARY: Building on these  
22 efforts, the Board directed staff to move forward with.  
23 And we look forward to even better results into the next  
24 year.

25 In the overall regulatory effort in regards to

1 solid waste management, I'm going to throw some important  
2 numbers at you here. In these efforts 753 LEA staff  
3 attended training provided by the Board; 240 technical  
4 assistance activities were provided to LEAs; 40 permits  
5 were approved; and over 250 financial assurances were  
6 evaluated and completed. Foreclosures were approved and  
7 substantial progress was made on six other challenging  
8 sites.

9           The Board's Health and Safety Program stretched  
10 to include all the fire disasters that we responded to  
11 last year. Over 500 inspections were conducted with  
12 the -- as the enforcement agency, along with 85 18-month  
13 inspections and 11 permit inspections.

14               Conducted 8628 tire inspections with our local  
15 grantees and initiated 660 enforcement actions in the tire  
16 area.

17               These positive trends are developing at problem  
18 facilities, with the number of active landfills on the  
19 inventory for not meeting minimum standards decreasing  
20 from 13 to 9, active landfills under enforcement orders  
21 decreasing from 13 to 10. And all waste and tire  
22 facilities other than landfills on the inventory are  
23 dropping from 17 to 2. All this positive activity in the  
24 enforcement area is starting to pay off.

25 --o0o--

1 EXECUTIVE DIRECTOR LEARY: The Board leads the  
2 word I think in putting money out on the street. Our  
3 grants program into the future had a very productive and  
4 effective 2007, funding all kinds of opportunities to  
5 assist in the safe and effective management of waste.

6 The Board awarded \$44 million in grant funds to  
7 approximately 600 different entities. And on top of that  
8 we established three new grant programs - the Tire  
9 Rubberized Asphalt Concrete Chip Seal Program, the  
10 Liquefied Natural Gas from Landfill Gas Demonstration  
11 Grant, and Tire Business Assistance Programs.

12 On top of those kind of assistance grants we're  
13 providing lots of funds for cleanup. We reached historic  
14 levels in 2007 in terms of participation, with over 7.2  
15 million in funding awarded to 64 applicants.

16 --o0o--

17 EXECUTIVE DIRECTOR LEARY: We awarded 4.5 million  
18 under the Solid Waste Disposal and Codisposal Program to 8  
19 applicants; 1 million Farm and Ranch Program to 21  
20 applicants; and 1.6 million to Local Government Tire  
21 Cleanup Grant Programs to 35 applicants.

22 Our Tire-derived Product Grant Program provided  
23 another \$2.4 million for 80 projects, ranging from  
24 agricultural and landscape to recreation. It's estimated  
25 that these efforts have diverted almost 955,000 tires.

1                               --o0o--

2               EXECUTIVE DIRECTOR LEARY: Further, we're helping  
3 make sure that landfills get closed. Seventy-eight  
4 percent of the required landfills needing closure have  
5 been certified as closed. Since February 2007, one  
6 certification report was received and four have been  
7 approved. The most significant accomplishments of our  
8 annual targets are on the high-profile landfills mentioned  
9 in this slide.

10                           --o0o--

11           EXECUTIVE DIRECTOR LEARY: Solid waste cleanup in  
12 the Solid Waste Disposal/Codisposal Cleanup Program had a  
13 very productive year with its also highest level of  
14 activity since its inception in 1994. \$15 million were  
15 approved for Board-managed and grant cleanup site  
16 projects, including the 257 projects resulting from the  
17 Angora fire, 45 illegal disposal sites, and 7 landfill  
18 sites.

19           \$6.3 million in cleanup projects approved in  
20 prior years were completed in 2007 also, addressing 77  
21 other illegal disposal sites and 3 burn dump sites.  
22 Probably the largest and most complicated beyond Angora  
23 was the Riverside County Torrez/Martinez Reservation  
24 illegal disposal site that we provided \$1.5 million in  
25 cleanup assistance.

1           The Farm and Ranch Cleanup Grant and Local  
2 Government Waste Tire Cleanup and Amnesty Event programs  
3 were also highly successful in 2007. A million dollars in  
4 the Farm and Ranch for 42 sites, and Local Waste Tire  
5 Cleanup Program approved \$1.6 million for a cleanup of  
6 approximately 540,000 tires.

7                               --o0o--

8           EXECUTIVE DIRECTOR LEARY: The Board has  
9 continued to make substantial progress in Board-managed  
10 cleanups for the complicated and controversial waste tire  
11 sites in Sonoma. In fact, we anticipate that the  
12 Infineon, Flochinni, Ahlgrim, and Maffia sites are the  
13 four remaining ones, and they will be completed in 2008.

14                              --o0o--

15           EXECUTIVE DIRECTOR LEARY: A program that doesn't  
16 get a lot of attention, we don't talk about very often;  
17 but we had another historic year in 2007 for compliance  
18 with recycled content newsprint. All 139 regulated  
19 consumers submitted their certification. And 87 percent  
20 of those were found in compliance, with 68 percent of the  
21 newsprint used was recycled content newsprint in the State  
22 of California, representing the highest use since 1991.

23                              --o0o--

24           EXECUTIVE DIRECTOR LEARY: The Board continues to  
25 demonstrate its efforts to green events into the future by

1 greening the Governor's inauguration in January. Through  
2 our partnership with Waste Management, the Board and their  
3 staff planned for the diversion of recyclables during the  
4 inauguration events, including food waste, paper and  
5 beverage containers.

6 A second event, of course the Governor's  
7 Conference for Women, where merely 14,000 women and Gary  
8 Petersen gathered at this national premier forum --

9 (Laughter.)

10 EXECUTIVE DIRECTOR LEARY: -- for the empowerment  
11 of women held again at the Long Beach Convention Center --  
12 lucky Gary --

13 (Laughter.)

14 EXECUTIVE DIRECTOR LEARY: -- led by California's  
15 First Lady, Maria Shriver.

16 In response to -- in continued response to 2176,  
17 we respond to the events of organizers and minimize waste  
18 from this event. The City of Long Beach representatives  
19 and the venue administration coordinated efforts to  
20 present a zero-waste lunch.

21 --o0o--

22 EXECUTIVE DIRECTOR LEARY: The Great Taste, No  
23 Waste Lunch was served using compostable products and  
24 diverted nearly 8,000 pounds of lunch waste from the  
25 event, which was later processed at the community

1 recycling center in L.A. for composting.

2 --o0o--

3 EXECUTIVE DIRECTOR LEARY: While there are many  
4 achievements, this has also been a significant year for  
5 the staff. In an effort to be more effective, Julie and I  
6 led an effort to reorganize our staff and create two  
7 primary programs. In July we kicked off this long journey  
8 and continuing to align staff activities towards a  
9 transition to a statewide level with a more market and  
10 locally based focus.

11 I think we continue to bring a strong local  
12 perspective through our reorganization, and I'm proud to  
13 say that we didn't have the drop-off in productivity that  
14 we thought we might have as a result of the  
15 reorganization. The staff of this organization have moved  
16 forward aggressively, continue to do our core work and  
17 accept the new work defined in the strategic directives  
18 and through the reorganization. And I hope that it  
19 continues to be as successful at least as we have  
20 initially perceived it to be through these last six  
21 months.

22 Part of this reorganization of course is a strong  
23 support for training and building our Board core basis of  
24 understanding and knowledge and have comprehensively  
25 trained and developed staff.



1                               --o0o--

2               EXECUTIVE DIRECTOR LEARY:   The focus of our  
3 training office is to provide this training so that we can  
4 develop the skills and knowledge to move forward  
5 effectively.  We've set up a number of educational  
6 seminars for staff and getting all the information they  
7 need to get to move forward in their new responsibilities.

8               Our executive staff has also completed the UC  
9 Davis Extension Leadership Academy Series, which has  
10 helped familiarize them with current thinking and best  
11 leadership practices.

12              Our first and second line of supervisors are also  
13 attending the Leadership Academy to hone their skills at  
14 leading change, managing performance, and building and  
15 managing effective teams.

16              In closing, I don't mean to end on a down note.  
17 In fact, I offer this as a moment of inspiration.  But I  
18 want to take just a moment to remember and celebrate two  
19 of our employees who passed away this past year.  Donna  
20 Hogan and Bob Conheim both embodied the spirit of this  
21 organization.  They were hard working, dedicated,  
22 public-servant oriented, and ever mindful of the need to  
23 give back.  They both contributed in every way they could  
24 to make the world a better place.  And they exemplified  
25 what we all aspire to be - caring, giving individuals.

1 They were both open and fun loving and living life to the  
2 fullest and making life better for everyone who knew them  
3 They left us far too soon. We miss them greatly.  
4 And they inspire us into the future.

5 And with that, Madam Chair, I conclude a quick  
6 review of 2007. I meant to draw as much attention to all  
7 our successes as I possibly could. I've gone on too long,  
8 but I think our staff deserve it. And I conclude.

9 CHAIRPERSON BROWN: Thank you very much, Mark. I  
10 think "Wow" is probably all that can be said. I don't  
11 know whether that inspires pride in what you do or just  
12 sheer exhaustion for the magnitude of what's been  
13 accomplished. But I will say -- and with heads nodding, I  
14 think I speak on behalf of the Board -- that you and your  
15 leadership team have led a great and phenomenal effort  
16 throughout 2007. And though we don't challenge you to  
17 continue to step at that pace, but I know the staff is  
18 dedicated and we have a phenomenal staff, which is why it  
19 keeps getting cherry-picked. But congratulations and a  
20 great, great effort.

21 EXECUTIVE DIRECTOR LEARY: Thank you, Madam  
22 Chair.

23 CHAIRPERSON BROWN: And I think I'd like a copy  
24 of the year-end review, if that's available.

25 EXECUTIVE DIRECTOR LEARY: Actually I didn't

1 bring mine with me. But --

2 CHAIRPERSON BROWN: Just Email is fine.

3 EXECUTIVE DIRECTOR LEARY: -- Jon has developed a

4 flier that we'll be putting on our website and making

5 available to all the members, that puts in kind of an

6 issue -- what's the right word, Jon? Help me out here.

7 ASSISTANT DIRECTOR MYERS: You're on your own.

8 (Laughter.)

9 EXECUTIVE DIRECTOR LEARY: Thanks.

10 CHAIRPERSON BROWN: A one pager --

11 EXECUTIVE DIRECTOR LEARY: That's the support I

12 can count on on a day-to-day basis.

13 (Laughter.)

14 CHAIRPERSON BROWN: A synopsis of the year-end

15 review in sort of --

16 ASSISTANT DIRECTOR MYERS: It is exactly that, a

17 year-end review. What I'd like to do is take this, and

18 then I think we're going to shrink it down a little bit.

19 Can't get it on the note cards. That would be so nice.

20 But we'll shrink that down a little bit. It will be

21 something that you can use as a handout or a leave-behind

22 on your many meetings and visits.

23 CHAIRPERSON BROWN: Outreach.

24 Thank you very much.

25 Okay. Well, we've got an aggressive agenda

1 today, a lot of very meaty items. And by the audience  
2 participation today, I know that we have great interest in  
3 several of our agenda items.

4 So just to kind of let everybody know where we  
5 are, what we're anticipating, we'll do the regular consent  
6 agenda, the fiscal agenda items.

7 And then there's several items before the full  
8 Board. And the order in which we intend to take them --  
9 and I'll try and give some rough guesstimates of time. We  
10 will start with Item 8 after we finish fiscal consent  
11 items. Then we'll move to Item 12 and then Item 15.  
12 We'll take a brief five- to ten-minute break at that time.  
13 And then we'll do Items 6, break for lunch. We'll come  
14 back and we'll do Item 10 and 11.

15 So that is our intention to run through the day.  
16 Hoping to get to lunch by about 1 o'clock. So just to  
17 give everyone an idea.

18 So I'd like to first do the consent agenda.  
19 Consent agenda items are 1, 2, 3 revised, 4, 5, 7, 13, and  
20 17 revised. Are there any items on the consent agenda  
21 that anybody would like to pull at this time?

22 Can I have a motion?

23 BOARD MEMBER MULÉ: Madam Chair, I'd like to move  
24 the consent agenda.

25 CHAIRPERSON BROWN: Is there a second?

1 BOARD MEMBER PEACE: Second.

2 CHAIRPERSON BROWN: It's been moved by Member

3 Mulé and seconded by Member Peace.

4 Kristen, can you call the roll.

5 BOARD SECRETARY GARNER: Chesbro?

6 BOARD MEMBER CHESBRO: Aye.

7 BOARD SECRETARY GARNER: Danzinger?

8 VICE CHAIRPERSON DANZINGER: Aye.

9 BOARD SECRETARY GARNER: Mulé?

10 BOARD MEMBER MULÉ: Aye.

11 BOARD SECRETARY GARNER: Peace?

12 BOARD MEMBER PEACE: Aye.

13 BOARD SECRETARY GARNER: Petersen?

14 BOARD MEMBER PETERSEN: Aye.

15 BOARD SECRETARY GARNER: Brown?

16 CHAIRPERSON BROWN: Aye.

17 The consent agenda is passed.

18 We'll move next to the fiscal consent. And Item

19 16 -- and I believe that that's the Markets Committee.

20 I'll ask Member Petersen first, do you have a

21 Committee report for the Market and Sustainability Program

22 Committee?

23 BOARD MEMBER PETERSEN: Yes, Madam Chair, and

24 thank you.

25 The Market Development and Sustainability

1 Committee heard four items last week. Items 16 and 17  
2 were approved by Committee for our fiscal consent calendar  
3 this morning.

4 I'd like to note that although the scope of work  
5 for Item 17 was not revised, staff did agree to include  
6 discussion of local household hazardous waste collection  
7 needs and the scoping process for the baseline  
8 infrastructure study.

9 It is apparent that the Board has some serious  
10 thinking to do about the E-waste programs in the coming  
11 months, as was made very clear in the staff's update on  
12 Item 18, which was heard in Committee only.

13 And, lastly, Item 15, which has been revised to  
14 reflect direction at the Committee meeting, will be  
15 discussed by the full Board today.

16 And that concludes my report.

17 CHAIRPERSON BROWN: Thank you.

18 Next I'll move to Howard to present Fiscal Item  
19 16.

20 SUSTAINABILITY PROGRAMS DIRECTOR LEVENSON: Thank  
21 you, Madam Chair. I'm Howard Levenson with the  
22 Sustainability Program. And I'll just make a very brief  
23 presentation.

24 Item 16 seeks the Board's consideration of  
25 allocations for the final category in the statutory

1 formula for the used oil recycling fund expenditures. And  
2 that category is the statewide information and education  
3 programs.

4 There's a number of different line items that we  
5 are proposing related to support for the certified  
6 centers, the used oil conference, and three contracts  
7 related to infrastructure, database modernization, and the  
8 ability to have a repository for all of our graphics  
9 materials.

10 We did have to revise Attachment 2 because we had  
11 transposed one of the dollar amounts. So that's corrected  
12 in this item. And, otherwise, with that, I recommend that  
13 you adopt Option 1 and approve resolutions 2008-17, 18, 19  
14 and 20.

15 CHAIRPERSON BROWN: Does anybody have any  
16 questions on Item 16?

17 Can I have a motion?

18 BOARD MEMBER MULÉ: Can we do all this in one  
19 motion?

20 CHAIRPERSON BROWN: Yes.

21 BOARD MEMBER MULÉ: Okay. Then I'd like to move  
22 Resolutions 2008-17, -18, -19, and -20.

23 BOARD MEMBER PETERSEN: I'll second that.

24 CHAIRPERSON BROWN: It's been moved by Member  
25 Mulé and seconded by Member Peace.

1           Kristen, can you call the roll.

2           BOARD SECRETARY GARNER:   Chesbro?

3           BOARD MEMBER CHESBRO:   Aye.

4           BOARD SECRETARY GARNER:   Danzinger?

5           VICE CHAIRPERSON DANZINGER:   Aye.

6           BOARD SECRETARY GARNER:   Mulé?

7           BOARD MEMBER MULÉ:   Aye.

8           BOARD SECRETARY GARNER:   Peace?

9           BOARD MEMBER PEACE:   Aye.

10          BOARD SECRETARY GARNER:   Petersen?

11          BOARD MEMBER PETERSEN:   Aye.

12          BOARD SECRETARY GARNER:   Brown?

13          CHAIRPERSON BROWN:   Aye.

14                 SUSTAINABILITY PROGRAMS DIRECTOR LEVENSON:   And,

15   Madam Chair, I do want to thank Bert Wenzel and Admin

16   staff, Suzanne Blihovde and others, for all the

17   coordination that went on on that item.

18                 CHAIRPERSON BROWN:   Thank you, Howard and Bert,

19   and company.

20                 Passage of Resolution 2008-17, 18, 19 and 20.

21                 Next, move to Committee Chair Mulé for a

22   Committee report.

23                 BOARD MEMBER MULÉ:   Thank you, Madam Chair.

24                 We heard five -- or we heard a total of seven --

25   six items.   One was moved to the full Board prior to



1 Committee, and so we will be hearing that. That's the  
2 item on the City of Cerritos. And then the second item  
3 that we will be hearing today is the temporary permit  
4 regulations, the emergency regulations. So those will go  
5 to the full Board.

6 Other than that, we did have five permit items  
7 which were all approved and put on consent.

8 And that concludes my report. Thank you.

9 CHAIRPERSON BROWN: Thank you.

10 Now we will first go to full Board consideration,  
11 Item No. 8.

12 And Ted Rauh to present.

13 WASTE COMPLIANCE & MITIGATION PROGRAM DIRECTOR

14 RAUH: Thank you, Madam Chair. I'm Ted Rauh, Director of  
15 the Waste Compliance and Mitigation Program.

16 Item 8 is: Consideration of Adoption of the  
17 Emergency Regulations for the Issuance of Temporary Solid  
18 Waste Facility Permits for Solid Waste Transfer or  
19 Processing Stations and Composting Facilities Pursuant to  
20 AB 1473.

21 Staff originally released draft regulations for  
22 review on the 21st of December of last year. Subsequently  
23 held its own workshop on the 9th of January. Some  
24 modifications to those regulations were provided to the  
25 Committee prior to the Committee meeting, along with a

1 summary of comments received.

2           At the January 14th Committee meeting additional  
3 changes were directed by the Committee. And a summary of  
4 the comments received is in the back of the room for both  
5 prior to the Committee hearing and also as a result of the  
6 Committee hearing.

7           Regulations that you have before you today were  
8 modified subject to that direction, and basically build on  
9 the copy that were provided to the Committee. So that all  
10 that you see in the changes are those that were referenced  
11 as a result of the Committee meeting, with one exception:  
12 We made a minor mistake in leaving off underlining on page  
13 2, lines 41 through 43. This is new text, which is part  
14 of subsection G dealing with ownership. It's consistent  
15 with our position, and I don't think it constitutes a  
16 substantive change but I did want to bring it to your  
17 attention.

18           As a result of the Committee workshop -- or the  
19 Committee meeting, there were several areas of change.  
20 I'd like to highlight those quickly for you. And then  
21 subsequently Mark de Bie will provide a more detailed  
22 overview of the regulations to respond to any specific  
23 questions you have.

24           BOARD MEMBER CHESBRO: Could I just ask a quick  
25 question?

1           How long have the changes been in circulation?

2   Have the folks who raised the concerns in Committee had  
3   the chance to --

4           WASTE COMPLIANCE & MITIGATION PROGRAM DIRECTOR

5   RAUH:   They were released last Thursday -- or Friday,  
6   excuse me, Friday.

7           BOARD MEMBER CHESBRO:   Okay.   Thank you.

8           WASTE COMPLIANCE & MITIGATION PROGRAM DIRECTOR

9   RAUH:   And Emailed to all of those that were active  
10   parties, as well as posted on the Board.

11          CHAIRPERSON BROWN:   Thank you.

12          WASTE COMPLIANCE & MITIGATION PROGRAM DIRECTOR

13   RAUH:   The Committee directed that the permit name be  
14   changed, and the staff has made the change, to temporary  
15   solid waste facility permit or temporary permit.   The  
16   Committee directed that the proposed language should spell  
17   out the specifics of how applicants prove eligibility for  
18   the temporary permit and that there should be mechanisms  
19   to verify that the information is correct and that the  
20   regulations continue to rely on the LEA to verify that  
21   information and also that the Executive Director verify  
22   that information as part of the approval of these permits.  
23   And that change has been made.

24          Staff has clarified the references to a stay in  
25   the regulations as they are currently written.   A stay of

1 an order to cease and desist is occurring only when -- or  
2 only under the condition that the permit is being applied.  
3 And there was some clarity that needed to be made to the  
4 regulations with respect to that area.

5           The Committee directed that the permit not be  
6 transferable relative to location or ownership. We have  
7 clarified that the permit not be transferable with respect  
8 to location. Based on direction from legal counsel, we  
9 have continued to allow the permit to be transferred via  
10 ownership as long as the process both specified in statute  
11 and regulation are followed.

12           Staff also clarified the regulations to make it  
13 clear that they do not prohibit an applicant to engage in  
14 otherwise legal activity -- legal recycling activity.

15           And, finally, as I indicated to begin with, I'd  
16 like to turn the microphone over to Mark de Bie to provide  
17 a more specific line-by-line analysis for you.

18           PERMITTING & LEA SUPPORT DIVISION CHIEF de BIE:

19           Thank you, Ted. Mark de Bie. And I'll just --  
20 my intent is to quickly step through page by page, line by  
21 line on the changes and answer any questions that the  
22 Board may have relative to that.

23           As Ted indicated, we did kind of default back to  
24 the original reference to the type -- or the name of the  
25 permit, taking out "registration," and now initially

1 referring to it as temporary solid waste facility permit.  
2 Eventually the regs just default to referring to it as a  
3 temporary permit.

4           And so that appears in page 1 in lines 4 as well  
5 as in the definition on page 1 on line 40, and then pretty  
6 much thereafter it just refers to the permit as a  
7 temporary permit.

8           Moving quickly then to page 2, and one of the  
9 changes that we did relative to better defining the  
10 universe of sites and the type of activities that are  
11 being addressed by these regulations. You'll note down on  
12 page 2 starting with line 33 we included language that in  
13 our opinion tightens up a little bit more about what the  
14 expectation is in terms of what the application and,  
15 therefore, the permit will address in that there is --  
16 that this permit can't authorize or should not authorize  
17 any increase or change in location. It dials it down to  
18 referring to the year 2007 and just basically tightens up  
19 that whole aspect of the change in location. Or actually  
20 we even added in changing within the location. So if you  
21 have a building that you've been using, the expectation is  
22 that you continue using that particular building and not  
23 some ancillary or auxiliary building, as an example.

24           And then, as Ted indicated, we -- when we made  
25 the revisions to the regs we failed to indicate the new

1 language that starts on line 41, subsection G, which  
2 references the ownership issue. One of the commenters  
3 indicated that if we can't prevent transfer of ownership,  
4 we should require some sort of process. There is an  
5 existing process that's been in statute as well as in  
6 regulation for a very long time. So we point to that  
7 process. There's a noticing process to the LEA. There's  
8 information that needs to be provided to the LEA relative  
9 to the ownership change and the responsibilities of the  
10 new owner relative to the requirements in the permit. And  
11 if the LEA can determine that the new owner can fulfill  
12 the requirements of the permit as well as state minimum  
13 standards, then the LEA can allow the ownership change.  
14 If the LEA cannot make the finding that the new owner can  
15 uphold the requirements of the permit or state minimum  
16 standards, then the change in ownership would not be  
17 allowed.

18           So, again, the regs don't add anything. We just  
19 point to an existing process that's already in statute and  
20 regulation.

21           Then moving to page 3, I'll call your attention  
22 to the top of the page starting on the last part of line 2  
23 where we added information to clarify the references to  
24 the cease and desist order. Our attempt here is to  
25 clarify that only the portions of a cease and desist order

1 that may be in effect or issued after the permit is issued  
2 only apply to the permit itself. So if there's a cease  
3 and desist that's being required on the operator because  
4 of some other operational issue or some standard that's  
5 not being met, that would still be enforceable.

6 My understanding is that even with a stay in  
7 place on a cease and desist pending the appeal, once the  
8 appeal process has been resolved and if the finding is in  
9 the favor of the LEA relative to the enforcement order,  
10 the LEA has an opportunity to invoke that order and  
11 collect the appropriate penalties that may result from  
12 lack of compliance relative to that order.

13 Again, on page 3 down on line 37, we had a  
14 comment about the inspection frequency of the LEA. Staff  
15 note that even for an illegal site, the minimum  
16 requirement for an LEA is monthly. So to go beyond that  
17 with an illegal site that now has a temporary permit, we  
18 found difficulty in moving to that step. But we did  
19 include language that indicates to the LEA that if they  
20 see a need to do additional inspections, they have the  
21 authority to do it and they can point to this language to  
22 allow them to do that.

23 So if there is an issue, a question, or a problem  
24 that the LEA thinks they need to inspect, they have that  
25 authority now. This just clarifies that in this

1 particular case they can go ahead and do as many  
2 inspections as they deem necessary.

3           Relative to the question of verification, we  
4 approached this in two ways. We added language that  
5 increases the amount and detail of information, and then  
6 we also continue to require the LEA to review the  
7 application to find it complete and correct, so there's a  
8 verification phase there. And then we added additional  
9 language relative to the Executive Director's review and  
10 authority relative to the completeness and potentially  
11 correctness or -- yeah, correctness of the information.

12           So one area that that appears is on page 3, line  
13 56, where we went from "generally the same" to  
14 "substantially identical." So we tightened it up a little  
15 bit. Thank you, Michael, for that legal term.

16           On page 4, on the top of the page, starting with  
17 line 2 through 5, we've added information again about the  
18 type of information that needs to be submitted. It needs  
19 to be sufficient, verifiable information; and again  
20 pointed to the fact that it needs to be consistent with  
21 what was happening in 2007.

22           Again on page 4, line 29, additional information  
23 about information that should be submitted. We're  
24 pointing to business records as a possible source of  
25 information and giving examples of what those records



1 could include. So we're giving the LEA as well as the  
2 operator something concrete to look to in terms of  
3 providing detailed information.

4           On jumping to page 5, on line 27, again  
5 tightening up the information that the applicant's being  
6 provided. Initially we had mirrored what is in the  
7 current compost requirements for identifying just  
8 quantities of material on site. And now we're indicating  
9 language here about reporting actual amounts that were  
10 received per day. So a ton-per-day kind of assessment,  
11 which we hadn't included. So, again, an effort to tighten  
12 up the type of information that's to be submitted.

13           And then jumping to page 6, line 10, we debated  
14 the best way to approach trying to give clarity but not  
15 necessarily lock in an applicant in terms of a way of  
16 describing their operation. There's going to be a lot of  
17 variation out there in terms of type of material, volumes  
18 of material, level of residual, that sort of thing. So  
19 staff has opted to include a note that indicates to the  
20 LEA as well as the operator the type of information that  
21 would be expected to be submitted in an application.  
22 Things like a complete description of the specific waste  
23 types and amounts received. So not just MSW, but be  
24 specific about the waste types received. Or not just  
25 curbside recycling, but was it paper and bottles and cans

1 and that sort of thing?

2           We indicate that another approach could be  
3 indicating the collection methodology that was used. Is  
4 it single stream? Is it source separated? Is it a bin  
5 type of operation? Is it coming from commercial? Is it  
6 office? And then we also indicate in the note that an  
7 option could be to describe the percentages of residual or  
8 putrescible as another way of providing the detailed  
9 information in the application.

10           Again, staff debated whether we should include  
11 that as a specific requirement or go with this approach  
12 with the note. And we thought that, again because of the  
13 potential variability in operations to lock someone into a  
14 particular way of describing their facility, we might miss  
15 somebody, and then what do they do if we miscalculated on  
16 how they could potentially describe things? So the note I  
17 think is the preferred approach from staff's point of  
18 view.

19           And then again with the theme of verification,  
20 jumping to page 7 and looking at some of the changes that  
21 we did relative to the Executive Director's review and  
22 approval or action on the permit. On line 18 through 20  
23 and then again -- well, let me do 18 through 20. We  
24 indicate that the Executive Director can assess the permit  
25 to see if it's complete or not. So if there are pieces

1 missing, then the Executive Director can say, "Sorry, I'm  
2 not approving this temporary permit." So completeness  
3 reviews there.

4           And then starting on line 23 through 30, we have  
5 language in there that basically distills down to the  
6 ability of the Executive Director to assess the quality of  
7 the information relative to the description and whether  
8 it's verifiable or not. So if it's ambiguous and perhaps  
9 the Executive Director has conflicting information, then  
10 he can make statements relative to the verifiable nature  
11 of the information being provided in the application and  
12 take actions relative to his findings there.

13           Just to follow up on the thought. If the  
14 Executive Director did reject or not approve this proposed  
15 permit, the LEA would -- the Executive Director would  
16 communicate to the LEA the issues that he found, the LEA  
17 would have an opportunity to resubmit that application --  
18 or that proposed permit to rectify those issues, and then  
19 potentially be successful in having the Executive Director  
20 concur on the issuance of the permit.

21           So those were the changes to the regulations that  
22 staff made relative to the direction from the Committee.

23           We did receive a letter -- a copy of a letter  
24 that was sent to Member Mulé from CRRC. We've read  
25 through the letter. We think that we've addressed the

1 issues that were described in more detail in the letter,  
2 many of which we did hear at the Committee, and we're  
3 already in process of addressing through the testimony  
4 that was given then. So I think -- relative to the  
5 January 16 letter from CRRC, I think the changes that  
6 staff are proposing address those issues too.

7           So we are looking for either further direction  
8 from the Board on how to proceed; or if the Board is  
9 satisfied with the changes as they exist, we would ask for  
10 a vote on the resolution.

11           CHAIRPERSON BROWN: Great. Thank you, Mark, very  
12 much. Appreciate all the hard work that, Ted, you and  
13 mark and everybody did on making all these changes,  
14 posting them as quickly as possible so that everybody has  
15 a chance to review them.

16           We do have two speaks. I'll ask Board members if  
17 they have questions before that.

18           Gary.

19           BOARD MEMBER PETERSEN: Thank you, Madam Chair.

20           I'm just back to item -- or line item 33, page 2.

21 "A temporary permit may not be authorized" -- "may not  
22 authorize a facility to increase" -- would we put  
23 "tonnage" or "volume" in there just to clarify?

24           PERMITTING & LEA SUPPORT DIVISION CHIEF de BIE:

25           If you can give us a moment to review that. That

1 language was inserted to address the question about  
2 location. And I think -- don't we have some language  
3 that -- 28.

4 Right, yes. I knew we had it somewhere.

5 Thank you, Ted.

6 Line 28D indicates that it cannot authorize an  
7 increase in the amounts of material.

8 BOARD MEMBER PETERSEN: Great.

9 PERMITTING & LEA SUPPORT DIVISION CHIEF de BIE:

10 So D covers the amounts and then E addresses the  
11 location issue.

12 BOARD MEMBER PETERSEN: Okay. And then the only  
13 other question on this -- next one is on line 30, it says,  
14 "The verifiable business" -- well, I'm sorry. Lines 30,  
15 page 4, such as scale records or -- is it certified weight  
16 slips that we're going by, from certified scales?

17 PERMITTING & LEA SUPPORT DIVISION CHIEF de BIE:

18 Sure, if that's a helpful term. You know, we  
19 were -- just sort of reached into the bag and pulled out  
20 what we thought would be appropriate. So if "certified"  
21 is, you know, the rule of thumb, the way it's usually,  
22 typically referred to, we can just insert "certified  
23 receipts".

24 BOARD MEMBER PETERSEN: Thank you, Mark.

25 CHAIRPERSON BROWN: Member Peace.

1           BOARD MEMBER PEACE: I have a question, Mark. On  
2 page 7, lines -- starting with line 31, where it says,  
3 "The failure of an eligible facility to be specified on  
4 the nondisposal facility element of the applicable  
5 county-wide solid waste management plan is not grounds for  
6 Executive Director to object." Now, these facilities will  
7 need to be identified on the NDFE, correct? Now, that  
8 they're not meeting the, you know, 10 percent/1 percent,  
9 the three-part test, they would need to be listed now on  
10 the NDFE?

11           PERMITTING & LEA SUPPORT DIVISION CHIEF de BIE:

12           You know, I'm going to immediately refer to  
13 Elliot Block on that one.

14           CHIEF COUNSEL BLOCK: Eventually they will when  
15 they're granted the -- if they seek to obtain and granted  
16 the permanent permit. But as phrased in the regulations,  
17 you could see part of getting the temporary permit is  
18 their operating while they're working on getting the  
19 permanent version. They will need to be in the  
20 appropriate planning document in order to get the  
21 permanent --

22           BOARD MEMBER PEACE: So when they bring forward  
23 the full permit, they'll have to have gone through the  
24 process to --

25           CHIEF COUNSEL BLOCK: Right.

1 BOARD MEMBER PEACE: Okay.

2 CHIEF COUNSEL BLOCK: And this is consistent with  
3 I think what we did with the CDI regulations as well where  
4 we allowed that time period.

5 BOARD MEMBER PEACE: Great.

6 CHAIRPERSON BROWN: Any other questions?

7 Our first speaker is George Eowan.

8 MR. EOWAN: Can you hear me?

9 Hello. There we are.

10 Thank you, Madam Chair and board members.

11 As staff has said, the new version of these regs  
12 has gone a long way to respond to the letter that CRRC  
13 sent you on January 16th, written by my esteemed colleague  
14 and otherwise known as the more expensive talent.

15 And I think you've done a lot to just improve the  
16 language, tighten it up, make it a more level playing  
17 field, and we appreciate that.

18 There's a couple of issues that I did want to  
19 point out though that we still would like to see you  
20 consider. The first one has to do with the frequency of  
21 inspections. I think when this whole issue was first  
22 coming forward as a piece of legislation, there were some  
23 major issues that they were trying to address in that  
24 legislation. And one of the major issues was inspecting  
25 these facilities. And it just seemed to be a burden that

1 the LEAs could not do for a variety of reasons, including  
2 financing, you know, their time to go out and do that.  
3 And so you had facilities that were going forward  
4 operating and really weren't being inspected.

5           So I understand the staff's response in terms of  
6 kind of noting at least once monthly and maybe encouraging  
7 further inspections. But, you know, these are facilities  
8 that have been operating without any inspections for a  
9 long time. And we would like to see specific language, as  
10 we indicated in the letter, that they be inspected twice  
11 monthly.

12           And so the other issue that -- there's a couple  
13 other issues I wanted to mention. The second one has to  
14 do with the residuals and the 1 percent/10 percent issue.  
15 This was another kind of key problem that was out there,  
16 that these facilities, intending to be recycling centers  
17 and kind of working at that mode, and there is sort of an  
18 incidental increase in either the putrescibles or the  
19 residuals, and I don't see these regulations really  
20 addressing that very directly. We'd like to see -- I  
21 think you said -- I think Mark said that there was a note  
22 rather than -- where was that, Mark?

23           PERMITTING & LEA SUPPORT DIVISION CHIEF de BIE:

24           Let's see. It's --

25           MR. EOWAN: And I'm not sure what the purpose of



1 the note really serves rather than just simply making it  
2 explicit in the regulation where we're talking  
3 specifically about what, you know, the level of  
4 putrescibles are, what the level of residual is, as you  
5 would have to do anyway and -- you're already requiring  
6 them to do a lot of different things in terms of the  
7 specificity of the operations and so forth that's very,  
8 very similar to what you would require in a full solid  
9 waste facility permit.

10           So what we'd like to see is some specific  
11 language that would require that that be measured, that  
12 the level of residual that's not recyclables be measured  
13 as well as the putrescibles. I don't know that that's  
14 necessarily unfair. I think it gets to the point of what  
15 the bill was all about in the beginning. If it's higher  
16 than the 1 percent/10 percent, then we know what's going  
17 on out there and it gives you a level of information to  
18 act in the future.

19           And then, finally, on this issue of CEQA -- and I  
20 don't claim to be an expert on CEQA. But I do know that  
21 full solid waste facility permits in my experience always  
22 have gone through the CEQA process. And, again, I think  
23 early on in the discussions -- and maybe things have  
24 changed now -- it was said by staff that there was an  
25 assumption that these facilities had undergone CEQA, and

1 that that assumption then led to the statements in there  
2 that you didn't want to have anything going on forward in  
3 these facilities during the temporary permit process that  
4 would create a new project. And what we're saying is I  
5 don't know that making an assumption that these facilities  
6 have undergone CEQA is adequate and sufficient, and that  
7 what we'd like to see there is that the LEA and/or staff  
8 verify whether or not they've had CEQA. I mean it's --  
9 we're not saying that they must have CEQA. That's a  
10 determination made elsewhere. But in terms of you  
11 understanding whether or not they've undergone CEQA I  
12 think is very important in terms of the Executive  
13 Director's determination as to whether or not the facility  
14 is -- or the permit is complete.

15 So those are our comments. And I'd be happy to  
16 answer any questions if you have any.

17 BOARD MEMBER CHESBRO: Well, I have a question  
18 but it's for legal staff, triggered by your comments.

19 If I may, Madam Chair.

20 CHAIRPERSON BROWN: Go ahead.

21 BOARD MEMBER CHESBRO: I don't think we get to  
22 determine by regulation whether something is subject to  
23 CEQA, right? I mean all we're doing is not making  
24 reference to it. And if in fact it meets the definition  
25 of being a project, then it triggers CEQA. Is that

1 correct to understand?

2 STAFF COUNSEL BLEDSOE: Yes. Michael Bledsoe,  
3 Legal Office.

4 The context here is there's no necessary --  
5 there's not necessarily an assumption that the local  
6 government has already complied with CEQA. The  
7 assumption -- which is not an assumption -- the fact is  
8 eligible facility, the way we've defined it, means an  
9 existing facility. The regulations prohibit that facility  
10 from doing anything new in the future that's not, quote,  
11 substantially identical, closed quote, to what it's doing  
12 now. So when the only new requirement that a government  
13 agency makes is to require the issuance of a permit for an  
14 existing activity, that is not a project subject to CEQA.  
15 So that's why we've sort of phrased it this way. And why  
16 we put in there that in no case can a facility change its  
17 activities so that it would trigger CEQA.

18 So we've tried to make these -- excuse me -- make  
19 it clear that these are ministerial permits based on the  
20 LEA's analysis of the information that the operator  
21 provides and that it is for an existing activity,  
22 therefore -- and there's no change in that activity,  
23 therefore it's not a project subject to CEQA.

24 BOARD MEMBER CHESBRO: But my point was that it's  
25 determined by underlying CEQA statute, not by our

1 regulations, whether something meets the criteria for  
2 CEQA, is that --

3 STAFF COUNSEL BLEDSOE: That is correct.

4 BOARD MEMBER CHESBRO: Thank you.

5 PERMITTING & LEA SUPPORT DIVISION CHIEF de BIE:

6 If I may, just to add on to that -- sort of the  
7 point of view that I think related to what Member Chesbro  
8 was bringing up is, no matter what our determination  
9 relative to CEQA as a project or not relative to this  
10 action, other entities, local, regional, whatever, if they  
11 have an approval over the same project, they need to make  
12 a separate independent assessment. So you could have a  
13 local city government or county government or regional  
14 board or air board needing to issue a permit and  
15 triggering CEQA for their -- to support their approval.

16 So nothing in these regs would prevent another  
17 public entity from carrying out a CEQA project -- or  
18 process for this particular project.

19 CHAIRPERSON BROWN: Okay. Then can you address  
20 the other at least staff comment on the other two issues  
21 that were raised by Mr. Eowan, one which was more frequent  
22 inspections. I know you mentioned it, one discussion of  
23 the note section. And then also the specific measurement  
24 of residuals.

25 PERMITTING & LEA SUPPORT DIVISION CHIEF de BIE:

1           Right. Again, relative to the frequency of an  
2 inspection, for, I'm going to say, at least ten years,  
3 maybe more, the requirement of an LEA relative to an  
4 illegal facility -- completely illegal, no documentation  
5 on it -- has been monthly. So now we have basically an  
6 illegal facility operating without a permit now having a  
7 temporary permit. To require additional inspections just  
8 didn't -- we didn't see the need for -- if illegal  
9 facilities it's been okay for ten plus years to be  
10 monthly. What we have added in here is clarity for the  
11 LEA, the .2, to say, "I have the authority to go in and  
12 inspect more frequently if I see a need to do that." The  
13 LEAs continue to have their authority to charge a fee, to  
14 carry out the inspections. So that should not be an  
15 issue.

16           Now, some LEAs have structured that fee  
17 differently. Some do it on a pay-for-service kind of  
18 thing. If I go out and inspect, I charge you X amount of  
19 dollars. Some of them take it out of funds, and so  
20 individual operators don't really see a bill for  
21 inspections and that sort of thing.

22           So, they'll have the ability to charge for  
23 inspections and they can go in as often as they want.

24           CHAIRPERSON BROWN: Okay.

25           PERMITTING & LEA SUPPORT DIVISION CHIEF de BIE:

1           Relative to the residuals, you know, if the Board  
2   sees some benefit in requiring the operator to provide  
3   records maybe initially and ongoing relative to the  
4   measures on residuals or putrescibles, we could add that  
5   in. It's not there. They will need to keep records of  
6   tonnage received and what they do with the material in  
7   terms of recycling it or sending it for disposal. So in  
8   effect they will but it's not in terms of --

9           CHAIRPERSON BROWN: They will have to do that  
10   though in order to determine whether they're going to go  
11   for a full solid waste facility permit.

12           PERMITTING & LEA SUPPORT DIVISION CHIEF de BIE:  
13           Certainly, yeah.

14           CHAIRPERSON BROWN: So the only difference is  
15   whether we're going to require or allow the LEA to request  
16   the information on residual levels during their  
17   inspections.

18           PERMITTING & LEA SUPPORT DIVISION CHIEF de BIE:  
19           Right. And the LEA can look at tonnage records  
20   and determine that. But if we want something specific in  
21   the regs that highlights that, we can add something in.

22           CHAIRPERSON BROWN: Okay.

23           BOARD MEMBER MULÉ: Madam Chair, if I may.

24           I tend to agree with the request that's being  
25   made here. Because, as I mentioned in Committee meeting,

1 the issue really is the whole three-part test that we need  
2 to revisit, and the 1 percent/10 percent issue. And I  
3 think that if we require this information, it will help us  
4 in looking at the scope of the problem and help us in  
5 gathering the data that we need to determine whether we  
6 need to change that three part -- those provisions of the  
7 three-part test, the 1 percent and the 10 percent, and how  
8 much we need to change them.

9 So I tend to agree with the recommendation made  
10 by Mr. Eowan and CRRC on that.

11 Yes, on requesting the information, yes.

12 BOARD MEMBER PEACE: Not on limiting it, just on  
13 requesting the information?

14 BOARD MEMBER MULÉ: No, not -- yeah, just  
15 requesting the information.

16 CHAIRPERSON BROWN: Okay. Our next speaker is  
17 Chuck Helget.

18 MR. HELGET: Madam Chair, members of the Board.  
19 Chuck Helget representing Allied Waste. Good morning.

20 Judging by the discussion right now, I think I  
21 would just focus my testimony on two additional points.  
22 And, again, staff has come under very difficult  
23 circumstances -- it's always difficult adopting a  
24 regulatory package. But to do it on an emergency basis is  
25 extremely difficult, and we acknowledge that. And we have

1 come a long ways. And the discussion with the Board just  
2 now I think improves the regs again.

3 But on the issue of putrescibility and residuals,  
4 I would agree with Board Member Mulé that that is really  
5 the cutting edge of whether this facility is a solid waste  
6 facility or how it should be permitted is one of the  
7 standards that the Board has always used. And because of  
8 that, I would suggest that a cap of some sort should be  
9 imposed and would be appropriate. What's been suggested  
10 in the CRRC letter is 20 percent and -- what, 20 and 5,  
11 and I think those are a reasonable threshold.

12 These facilities shouldn't be -- at least in our  
13 view, shouldn't be allowed to operate without any caps,  
14 without any limits. I mean we're -- the nature of what  
15 we're dealing with here is an illegal facility that is now  
16 going to be operating illegally but under the blessing of  
17 a temporary permit. And that's sort of an ironic  
18 situation. And to allow that to be ongoing, I would  
19 suggest that a reasonable threshold from the Board's  
20 perspective would guarantee that you are keeping  
21 reasonable limits on these facilities without allowing  
22 them to just accept huge amounts of municipal solid  
23 waste -- of mixed waste.

24 The other issue, the issue of CEQA, is also very  
25 interesting to me, because the Board does -- when a solid



1 waste facility comes forward, your staff does a CEQA  
2 review and it's one of the boxes that are checked on the  
3 permit. If you want to call it a ministerial review or  
4 whatever, but there should be some at least  
5 acknowledgement that CEQA has been done; and if it has  
6 been done, what's being proposed is consistent with the  
7 CEQA document that's in place. And if that's just a  
8 ministerial finding that the Executive Director makes or  
9 that the LEA makes, I mean I think that from the Board's  
10 perspective is useful information and information you  
11 would want to know: Have these facilities conducted a  
12 CEQA or where are they at in the CEQA process? Because  
13 they are going to have to come forward with some sort of  
14 CEQA finding when the permit application comes before the  
15 Board. And I think that's all we're asking.

16 So with that, I'll close my testimony and answer  
17 any questions, because I see some confused looks.

18 CHAIRPERSON BROWN: Thank you.

19 Cheryl.

20 BOARD MEMBER PEACE: I don't really have any  
21 questions of Chuck per se. But I'm just -- I'm not  
22 agreeing with you on the limits, because I don't believe  
23 these facilities are going to be operating without limits.  
24 The limit is they can't do more than what they're already  
25 doing. And to put limits I think would go against what

1 this permit's trying to accomplish, the whole purpose of  
2 the permit process.

3 But I am still confused about the CEQA process.  
4 Because if you're a recycling facility that didn't need a  
5 CEQA finding before, but now you're going to get a full  
6 permit and now you're maybe going to be under a MRF  
7 classification, are we still saying you don't need to have  
8 the CEQA finding? Because other ones do have to have a  
9 CEQA finding. So I guess I'm confused.

10 STAFF COUNSEL BLEDSOE: Well, CEQA applies when a  
11 government agency makes a discretionary decision about a  
12 project. So in many cases for these facilities, if they  
13 were in fact recycling facilities, they might have gotten  
14 a use permit from the local government. A CEQA decision  
15 could have been -- should have been made at that time. If  
16 it was not made at that time, it's too late. There's only  
17 a 30-day or 180-day statute of limitations.

18 In many cases in Los Angeles County, recycling  
19 kinds of activities are treated -- are permitted as of  
20 right, so they're not -- there's no government entitlement  
21 grant; therefore, there's no -- CEQA doesn't apply there,  
22 because there's no discretionary decision.

23 You know, we do not know whether these activities  
24 are legal under local law or, for that matter, under water  
25 law or air law or any other law. All we know is they do

1 not have a solid waste facilities permit.

2           So, I think adding the requirement that we  
3 determine whether the facility is in compliance or that  
4 the LEA determine that the facility has complied with CEQA  
5 is -- frankly, would undo this program since it's designed  
6 to very quickly get facilities into -- you know, into some  
7 sort of temporary permit. And --

8           BOARD MEMBER PEACE: They still have a CEQA to  
9 get temporary permit --

10           STAFF COUNSEL BLEDSOE: Well, the legisla --

11           BOARD MEMBER PEACE: -- but as they go through  
12 the permit -- whole permit process, we're not going to  
13 require them to --

14           STAFF COUNSEL BLEDSOE: No, when they go get  
15 their permanent solid waste facilities permit, they have  
16 to comply with all of the requirements. So if CEQA  
17 applies at that point, then they'll have to get, you  
18 know --

19           BOARD MEMBER PEACE: Oh, okay. I thought you  
20 were saying that they would never have to.

21           STAFF COUNSEL BLEDSOE: Oh, I'm sorry. Excuse  
22 me. No, I'm talking only about the temporary solid waste  
23 facilities permit.

24           BOARD MEMBER PEACE: Okay. Thank you for making  
25 that --

1           STAFF COUNSEL BLEDSOE: I'm sorry, not the  
2 permanent.

3           PERMITTING & LEA SUPPORT DIVISION CHIEF de BIE:

4           If I may add a little bit more to the discussion  
5 too.

6           There is a requirement in the application package  
7 for the applicant to provide the information -- the same  
8 information he's giving to the local enforcement agency to  
9 the planning -- the land-use planning -- the local agency  
10 that oversees local land-use planning for the  
11 jurisdiction. So if there's an issue with land-use and  
12 CEQA, they'll be noticed, and they can pick that up and  
13 address it through their process.

14          Also, we require that the applicant provide the  
15 LEA and, therefore, us information about any public  
16 notices and meetings that may have been held relative to  
17 their project. So typically those would be CEQA notices  
18 and CEQA meetings. So we would get information about any  
19 previous CEQA process through that mechanism too.

20          So there are triggers here that would provide  
21 some of the CEQA-related information either through  
22 communication with the local land-use authority or through  
23 listing out those opportunities the public had to learn  
24 about the project in the past.

25          CHAIRPERSON BROWN: Thank you, Mark.

1 Chuck, you had a closing comment.

2 MR. HELGET: Thank you.

3 CHAIRPERSON BROWN: I can tell.

4 MR. HELGET: I think the fact that we don't know  
5 the nature of many of these facilities is what is  
6 bothering us. And I think staff has acknowledged early on  
7 in the process that we don't even have our fingers on how  
8 many of these facilities are operating out there right  
9 now -- exactly how many. I don't remember the range, but  
10 there was a pretty wide range of facilities.

11 And, again, with regard to CEQA, presumably they  
12 will be going through that process. But I would think in  
13 making a determination of whether or not this facility is  
14 legitimately operating slightly outside of the constraints  
15 of their recycling operation and have fallen into the  
16 category of needing a solid waste facilities permit, I  
17 would think that the Executive Director at least should be  
18 aware of where they are at in the CEQA process, whether or  
19 not they've applied. Because as I recall, what, they have  
20 a two-year timeframe to move forward on this permit. If  
21 you're doing a full blown CEQA, that's not an easy thing  
22 to accomplish within a two-year timeframe. And I know  
23 that -- Mark, you and I have sat down many times and  
24 looked at the CEQA documents in terms of our facilities'  
25 operations to make, you know, determinations of whether or

1 not what we're trying to accomplish or not accomplish at a  
2 facility is consistent with those CEQA documents. And,  
3 again, a ministerial review probably would be a good  
4 thing, not necessarily a bad thing.

5           And also with the caps, again, we don't know  
6 exactly how these facilities are operating or what they  
7 are doing. And we would find out I think subsequent to  
8 this at least gathering information on how much  
9 putrescibles they have, how far outside of the range of  
10 residuals are they is going to be useful information going  
11 forward.

12           Again, I think that's at a minimum. But I think  
13 it would be very comforting to those of us out there  
14 competing with these folks in the marketplace to know that  
15 they can't be operating outside of some set level of caps  
16 as well during this period of time.

17           Thank you.

18           CHAIRPERSON BROWN: Thank you, Chuck.

19           One question for Legal. When do we anticipate  
20 the permanent regs going forward on this?

21           STAFF COUNSEL BLEDSOE: The permanent -- there  
22 are no permanent regs on this. The way this statute is  
23 written, these are the only regulations. So there's --

24           CHAIRPERSON BROWN: This is a short permit  
25 period, okay. So we won't have any --

1 STAFF COUNSEL BLEDSOE: Correct.

2 CHAIRPERSON BROWN: Okay. We do have one more  
3 speaker.

4 Did you want to add something?

5 PERMITTING & LEA SUPPORT DIVISION CHIEF de BIE:

6 Just to that point.

7 CHAIRPERSON BROWN: Okay.

8 PERMITTING & LEA SUPPORT DIVISION CHIEF de BIE:

9 If the Board takes action and we're able to get  
10 the documents to the Office of Administrative Law,  
11 everyone should have their temporary permit somewhere in  
12 the July timeframe. And then they could operate under  
13 that until -- June of 2010?

14 STAFF COUNSEL BLEDSOE: Correct.

15 PERMITTING & LEA SUPPORT DIVISION CHIEF de BIE:

16 June 30th. So for about two years they'll be  
17 able to operate. And that's the timeframe they have to  
18 get their permanent permit, is that two-year timeframe

19 CHAIRPERSON BROWN: Okay. We do one more  
20 speaker, George Larson.

21 MR. LARSON: Thank you, Madam Chair, Board  
22 members. George Larson representing Waste Management.  
23 I'm trying to be Chuck White today. But I know those  
24 shoes are a pair I could never fill. But I'll do my best.

25 Also, as a kind of introductory comment, showing

1 my age, Brenda Lee had a song in the sixties called "All  
2 Alone Am I." And I think I might sing a few bars before I  
3 give my testimony.

4 (Laughter.)

5 MR. LARSON: But I'm encouraged --

6 BOARD MEMBER CHESBRO: That's so sad, George.

7 (Laughter.)

8 MR. LARSON: -- I'm encouraged actually at the  
9 testimony being given and the discussion around this  
10 subject, because this is not an issue that has a clear  
11 bright line, and requires I believe some close scrutiny  
12 maybe on a facility or issue-by-issue or  
13 processor-by-processor basis.

14 But to my testimony, many in the room remember  
15 the arduous process of the debate over the 10 percent  
16 residual and 1 percent putrescible. And I think I may  
17 have even participated on that as a person on your side of  
18 the dais as a bureaucrat but also out here as a private  
19 sector representative.

20 Those parameters were developed appropriately to  
21 create a path of least resistance in order to promote the  
22 development of a recycling infrastructure to achieve then  
23 the 25 and in 2000 the 50 percent diversion. That having  
24 been achieved, I think the 10 percent and the 1 percent  
25 were most appropriate for the time.



1           I think today by your Board's policy and by the  
2 actions of many local governments, they're looking at  
3 higher diversion rates, for example, 75 percent in Alameda  
4 County, and maybe even higher if the Board's stated policy  
5 of zero waste is to be achieved at some point in the  
6 future.

7           Our concern about the strict interpretation or  
8 application of the 10 percent/1 percent threshold, again  
9 certain materials processors could serve to reduce the  
10 needed diversion that these processors provide. And that  
11 will enable us to get past the 50 percent towards higher  
12 goals.

13           Now, I'm I feel as adamant as other testifiers  
14 about capturing the scofflaws, if you will, or those who  
15 wish to circumvent solid waste law, and bring them under  
16 appropriate regulatory scheme or shut them down. I mean  
17 that's not the issue I think that's at hand here for  
18 discussion.

19           I want to pick up and support the suggestion made  
20 by Board Member Mulé that suggests that maybe it is time  
21 to take another look at this 10 percent/1 percent, maybe  
22 not to get rid of it. But Waste Management submitted in  
23 an Email submittal, which are not in the comments here,  
24 I'm sure because of the timing of the submittal, that  
25 possibly some different structure might be authorized to

1 address these kinds of facilities.

2 Now, the law itself I believe is clear, or at  
3 least there's a statement that there's an anticipation  
4 that many transfer -- I believe the language is transfer  
5 station, processing facilities, and compost facilities are  
6 anticipated to come on line in the next two to five years.

7 Following Ms. Mulé's thoughts, I think for the  
8 next couple of years it might be worthwhile to initiate an  
9 evaluation of this subject, even if these regulations are  
10 enacted as they are today, because I think again there are  
11 some -- there are some issues that are not black and white  
12 or have a bright line.

13 For example, a model after the tiered permitting  
14 process that might allow for notification, registration,  
15 and then full solid waste facility permits based upon some  
16 criteria, maybe 10 percent being the exemption; 20  
17 percent, the notification; and 30 percent, the  
18 registration. That would be subjected to the  
19 deliberations to establish that. But for the purposes of  
20 establishing the policy, I think that that's a good place  
21 to start.

22 I was encouraged by Mr. Eowan's testimony, and I  
23 was unaware of it until his testimony, that CRRC submitted  
24 a letter indicating that they might support a 20 percent  
25 residual and a 5 percent putrescible. I haven't had a

1 chance to look at that. So that's one of the things that  
2 caused me to say I was encouraged by the discussions thus  
3 far.

4           We question whether a facility that's, say,  
5 processing waste paper, a full range of varieties, that's  
6 accepting it from single-stream sources, that has a 75  
7 percent diversion rate contributing to the goals of this  
8 Board, should be brought under a full solid waste facility  
9 permit process. I think they will under the regulations  
10 as written. And I'm just again laying out our case that  
11 there may be a need for another structure.

12           While AB 1473 sets forward some clear direction,  
13 it also allows some latitude to address certain issues  
14 that have been raised. For a facility as stated in the  
15 law that is in operation and based upon operations during  
16 the year of 2007 sets the standard at which the volume and  
17 types of materials can be processed under a temporary  
18 permit.

19           I would suggest that there may be some other  
20 considerations before making that the only measurement.  
21 For example, if a facility is handling 5,000 tons a month  
22 of, let's call it, old newsprint, and they -- that  
23 facility or that company has a conditional use permit that  
24 allows 6,000 tons a month of processing, that the  
25 conditional use permit, which was awarded by the local

1 jurisdiction, should govern, not the volume of material  
2 that was processed in the calendar year 2007. Obviously  
3 that was evaluated at 6,000 points by the appropriate  
4 jurisdiction at some point in the past and should be the  
5 measurement.

6 I think that's it.

7 I just want to comment two more things. On the  
8 form in the back where Board staff summarize comments that  
9 were submitted and the responses, we appreciate very much  
10 that the term "solid waste facility," albeit it was left  
11 in the definition initially, it's not repeated throughout  
12 the regulations. The issue there I think is kind of  
13 obvious, is that local governments who think, if you will,  
14 that they have a recycling facility that they have  
15 permitted locally now sees solid waste facility posted all  
16 over all of the written materials, it causes them concern.  
17 We in Waste Management submitted in writing that a better  
18 term for us would be a "recycling materials facility" and  
19 then cast it into this tiered process.

20 But certainly there's an improvement in the  
21 changes that have been made.

22 And I support also and concur -- well, I can't  
23 concur because I'm not a lawyer -- I support the  
24 interpretation of the CEQA requirements that have been  
25 made.

1           So that's my story and I'm sticking to it. So if  
2 you have any questions, I'll be glad to respond.

3           (Laughter.)

4           CHAIRPERSON BROWN: Thank you, George.

5           Any questions for George before he retreats?

6           (Laughter.)

7           CHAIRPERSON BROWN: Any questions for staff,  
8 clarification on any points that were brought up by  
9 George, comments on the package as it's before us?

10          BOARD MEMBER CHESBRO: I do have a question for  
11 staff.

12          How do we anticipate that these facilities are  
13 going to be identified? There's a question of how many  
14 there are and where they are. And so what is -- is it  
15 just a question of someone calling us up and saying, "Hey,  
16 there's a facility down the street I think requires it"?  
17 Or is the LEA going to be the main vehicle? What do we  
18 anticipate?

19          PERMITTING & LEA SUPPORT DIVISION CHIEF de BIE:

20          The legislation included language that indicated  
21 that it was the LEA's responsibility to notify any  
22 potential operators out there. We are beginning the  
23 process to support the LEAs in making that effort to get  
24 the word out. We're educating them about the requirements  
25 in the statute as well as in the regulations. Passing on

1 any information that we have from someone calling us, you  
2 know, we'll work hand in hand with them on locating these  
3 operators.

4 At the workshop there was a question of staff on  
5 whether we would be available to go to various groups to  
6 give presentations. And we can do that too. And we'll  
7 make staff available to get the word out as much as we  
8 can.

9 But, again, the statute pointed to the LEA as the  
10 main vehicle to get the word out to the operators.

11 BOARD MEMBER CHESBRO: Thanks.

12 CHAIRPERSON BROWN: Thank you, Mark.

13 Other questions?

14 Cheryl.

15 BOARD MEMBER PEACE: I guess I just have a  
16 question relating to what Mr. Larson brought up, the fact  
17 that we're going to limit the temporary permit to the  
18 tonnage and activities that they did in 2007 versus what  
19 their CUP says. Can you go over that again?

20 PERMITTING & LEA SUPPORT DIVISION CHIEF de BIE:

21 Right, yes. The regs clearly indicate that the  
22 information that the applicant is to provide is to  
23 describe what they actually did in 2007; not what they had  
24 permission to do, but what they actually did. And they  
25 would be kept to that.

1           It does include language that says if you want to  
2 expand aspects of your facility that aren't regulated  
3 under a solid waste facility permit, if you are taking in  
4 buyback or something to that nature, then you can expand  
5 that. That's not anything that we would regulate under a  
6 solid waste facility permit.

7           So, you know, we do clarify that they can do  
8 those -- increase those aspects.

9           BOARD MEMBER PEACE: Like when he was saying that  
10 they were taking 5,000 tons of paper and the CUP said  
11 6,000, that would be okay; they could --

12           PERMITTING & LEA SUPPORT DIVISION CHIEF de BIE:  
13           If the additional 1,000 was extremely clean and  
14 didn't fail the three-part test, yes, they could  
15 potentially increase that line.

16           BOARD MEMBER PEACE: Okay.

17           CHAIRPERSON BROWN: Any other questions or  
18 comments?

19           Okay. There were a couple of comments. I don't  
20 know what the Board consensus is, if there was any  
21 recommendations or comments made by any of the speakers  
22 that we want to direct staff to incorporate. Information  
23 or records for the LEA, is it necessary -- if we wanted  
24 the LEA to look at the residual levels and do that, is  
25 that necessary to specifically add into these regulations

1 that they review the records on the residual levels?

2 BOARD MEMBER MULÉ: And require them to submit  
3 them to the LEA, so that -- and then subsequently to us,  
4 so then again we -- going back to my earlier comment  
5 about revisiting the three-part test, which is where --  
6 again, to me that's the issue that we need to address.  
7 And so I think that if we had that information, that will  
8 help us form the basis for where we need to go with the  
9 three-part test. You know, again, the fact that we've got  
10 single-stream recycling, our residual may be higher than  
11 10 percent. But if it's nonputrescible waste, we then  
12 have to look at that -- you know, what is the impact on  
13 public health and safety.

14 And so we need to have that discussion. But I  
15 think getting that information will help us form the basis  
16 for that discussion. So I think that it would be helpful  
17 for us to have that information.

18 BOARD MEMBER PEACE: I guess -- I agree with  
19 Board Member Mulé, that information would be very helpful.  
20 I don't know if it's something we necessarily need to add  
21 into these regulations, because I would like to kind of  
22 get that information for composting facilities and all our  
23 different facilities just to kind of see where we are. I  
24 think that information would be helpful to see if we do  
25 have to adjust them. But I'm just wondering what would be



1 the best way to get that information.

2 CHAIRPERSON BROWN: Well, I think if we want to  
3 do a study and we want to go back and relook at the  
4 three-part test, we do that under a completely separate  
5 action of the Board, which then we can direct staff to go  
6 out to C&D facilities or compost facilities and temporary  
7 permitted solid waste facility. But I just don't know  
8 whether the LEA has the authority to request or require  
9 them to submit the information to us, because I think -- I  
10 think that there were some very good points made on  
11 residual and putrescible levels at these types of  
12 facilities, whether we do or don't. And I don't think I  
13 hear a consensus that we want to have caps on them,  
14 because we want to get them in and they will have to get a  
15 full solid waste facility permit. But we do want to start  
16 getting a snapshot, because we don't know. I think Chuck  
17 was the one who said, "We don't know what we don't know."  
18 We don't know what -- how many facilities. We don't know  
19 what they're doing. We don't know the level or magnitude.

20 But do we need to specifically say we want  
21 information?

22 WASTE COMPLIANCE & MITIGATION PROGRAM DIRECTOR  
23 RAUH: We can certainly -- it would be very easy in this  
24 portion to simply include that that information be  
25 provided as part of the application.

1           CHAIRPERSON BROWN: Well, I think it's not as  
2 part of the application. I think it's part of their  
3 inspection. I think every time the LEA goes, he looks at  
4 the records and says, "Where are their putrescible levels  
5 and what are their residual levels?" so that they can look  
6 and say is the facility doing what it did, are they going  
7 to trigger their solid waste facility permit? You know,  
8 what are they doing? Because we're giving them a permit  
9 to operate and, you know, letting them pass Go for two  
10 years. And I think we need to in some way hold them  
11 accountable and at least report the information on their  
12 residuals and putrescible even if we're not requiring a  
13 cap.

14           PERMITTING & LEA SUPPORT DIVISION CHIEF de BIE:

15           If I may. If we tighten up the requirement in  
16 the initial application to include specific information on  
17 residuals and putrescibles, that application in effect  
18 becomes the permit. So they are required to keep at those  
19 levels. They can't increase or decrease them. The LEA  
20 through their inspection process will need to continuously  
21 verify whether or not they're within those ranges. So  
22 they'll be requesting and getting the information they  
23 need in order to verify whether they're compliant with the  
24 permit.

25           So by just including specific references in the

1 application, we set up a process where the LEA can  
2 continuously evaluate those specific measures of the  
3 facility. So that would be one approach.

4 Another would be to create an entirely separate  
5 requirement of the operator to maintain monthly records  
6 perhaps on actual amounts of residuals and putrescibles  
7 that the LEA can access and pass on to us.

8 BOARD MEMBER MULÉ: Mark, couldn't that be  
9 written into the permit -- the temporary permit, just like  
10 we do with our -- you know, our permanent permits we  
11 require certain reports and records. So couldn't we write  
12 that into the temporary permit --

13 PERMITTING & LEA SUPPORT DIVISION CHIEF de BIE:  
14 Yes.

15 BOARD MEMBER MULÉ: -- as a requirement?

16 PERMITTING & LEA SUPPORT DIVISION CHIEF de BIE:

17 And that's what I was attempting to indicate.  
18 The application provided to the LEA is the permit. That's  
19 what they have to do. So if they say I was taking 15  
20 percent material or -- the materials I took resulted in 15  
21 percent residuals, that's all they can do. If they did  
22 16, they're out of compliance with the permit. So the  
23 LEA's going to need to verify if they're at 15 or lower in  
24 order to see if they're compliant with their permit.

25 So, yes, it does get incorporated into the

1 permit. It's just how clear and concise you want to be  
2 relative to that.

3 CHAIRPERSON BROWN: Very clear.

4 PERMITTING & LEA SUPPORT DIVISION CHIEF de BIE:

5 Okay. So what we could do is, we've been looking  
6 at -- on page 4, line 29, where we talk about submitting  
7 information on verifiable business records, our thought  
8 was to include specific language in there to say these  
9 records should include records of residual amounts and  
10 putrescible amounts relative to percentages, something in  
11 that regard.

12 So that would be an obvious place to insert it.  
13 It becomes part of the application, part of the permit.  
14 And it's something that can be reviewed on an ongoing  
15 basis by the LEA to see if they're compliant with that  
16 value or not.

17 CHAIRPERSON BROWN: Okay. Everybody good with  
18 that? Any objection?

19 BOARD MEMBER MULÉ: Yes, Madam Chair, that's  
20 fine.

21 CHAIRPERSON BROWN: Okay. Including those  
22 changes in the regs, can I have a motion on the  
23 resolution?

24 Do you have something else?

25 WASTE COMPLIANCE & MITIGATION PROGRAM DIRECTOR

1 RAUH: Madam Chair, we also had the suggestion from Member  
2 Petersen about adding one word with respect to the scales,  
3 certified --

4 CHAIRPERSON BROWN: I think -- you can have a  
5 certified scale?

6 WASTE COMPLIANCE & MITIGATION PROGRAM DIRECTOR

7 RAUH: That's correct.

8 CHAIRPERSON BROWN: That's fine.

9 WASTE COMPLIANCE & MITIGATION PROGRAM DIRECTOR

10 RAUH: So we'll add that as well.

11 CHAIRPERSON BROWN: As long as Gary's not  
12 standing behind and putting his finger on the back of it.

13 (Laughter.)

14 BOARD MEMBER PETERSEN: I won't be doing that.

15 BOARD MEMBER MULÉ: Madam Chair, with those  
16 changes, I'd like to move Resolution 2008-10.

17 BOARD MEMBER PEACE: Second.

18 CHAIRPERSON BROWN: It's been moved by Member  
19 Mulé and seconded by Member Peace.

20 Kristen, can you call the roll.

21 BOARD SECRETARY GARNER: Chesbro?

22 BOARD MEMBER CHESBRO: Aye.

23 BOARD SECRETARY GARNER: Danzinger?

24 VICE CHAIRPERSON DANZINGER: Aye.

25 BOARD SECRETARY GARNER: Mulé.

1 BOARD MEMBER MULÉ: Aye.

2 BOARD SECRETARY GARNER: Peace?

3 BOARD MEMBER PEACE: Aye.

4 BOARD SECRETARY GARNER: Petersen?

5 BOARD MEMBER PETERSEN: Aye.

6 BOARD SECRETARY GARNER: Brown?

7 CHAIRPERSON BROWN: Aye.

8 Thank you all very much.

9 A little off my anticipated schedule.

10 How are we doing for time? Are we okay?

11 Okay. Then we'll move next to Agenda Item 12,

12 which is: Consideration of the Revisions to the EPR

13 framework.

14 And Howard.

15 SUSTAINABILITY PROGRAMS DIRECTOR LEVENSON: Thank

16 you, Madam Chair. Howard Levenson.

17 I'm going to have the EPR team come up. So while

18 they're doing that, they're also going to hand out to you,

19 if you didn't get it already, a letter from -- well, let's

20 see. We're on Item 12. I'm mixed up. I'm on --

21 CHAIRPERSON BROWN: We're on Item 12.

22 SUSTAINABILITY PROGRAMS DIRECTOR LEVENSON: I'm

23 going to have the EPR team come up here.

24 Before I get going, I do want to recognize this

25 team. I think, like many of our staff initiatives,

1 they've done a fantastic job over the last year really in,  
2 you know, getting information, looking at EPR, and putting  
3 together something that I think the Board can be very  
4 proud of in adopting last September and continuing to work  
5 on.

6 We have Brenda Smyth on my left; Kathy Frevert,  
7 Cynthia Dunn, Robert Carlson on my right; and along with  
8 Renee Lawver, who's also been part of the team. And  
9 they've really done a great job.

10 Obviously this item is seeking your consideration  
11 of revisions to the EPR framework. We already got general  
12 direction from you last week at the Policy Committee  
13 meeting to continue working with stakeholders on a few key  
14 issues, implementation issues, as well as to work on  
15 hosting an educational workshop later this spring to bring  
16 people in from around the country and around the world who  
17 are actually practitioners of EPR. So we'll be working on  
18 those activities.

19 But today we're seeking your consideration of  
20 specific proposed revisions to the framework, which Kathy  
21 will describe in a moment.

22 We believe these revisions will add a lot of  
23 clarity to the framework and that they address many --  
24 certainly not all but many of the stakeholder concerns  
25 that we've heard over the last few months, without

1 changing the fundamental approach of the framework.

2 I want to make sure that everybody knows which  
3 attachments are which. We've had a lot of revisions and a  
4 lot of different attachments. So let me just walk through  
5 for everyone's benefit what's what, and we'll try to make  
6 sure that we'll referring to things very specifically as  
7 we go through this.

8 First of all, we have the agenda item. That was  
9 revised simply to reflect the fact we've added additional  
10 attachments and exhibits. So there's nothing  
11 fundamentally substantively changed in the agenda item.

12 We have Attachment 1, which is the EPR framework  
13 itself. We've revised that in a double strikeout, double  
14 underline to reflect the changes that were specifically  
15 discussed at the Committee meeting and so directed by the  
16 Board to include as revisions.

17 So that doesn't include anything that happened  
18 after the Committee meeting.

19 Then we have Attachment 2. That's the attachment  
20 that we provided to you at the Committee meeting. It's  
21 about 20-odd pages. Those were all the comments that we'd  
22 gotten up to that point and our staff response. So  
23 there's been no revisions to that attachment.

24 And then we have three exhibits. We have Exhibit  
25 1, which was the definition of EPR that we presented at



1 the Committee meeting and which we've incorporated into  
2 the revised framework.

3           We have Exhibit 2, which was -- our addendum --  
4 right before the Committee meeting, of all the comments  
5 that we got -- we had three sets of comments we got just  
6 before the Committee meeting. We put together an  
7 addendum, identified some potential changes. And, again,  
8 you directed us to incorporate those, and those are  
9 reflected in the Attachment 1.

10           The final exhibit, which is new, is a second  
11 addendum to Attachment 2. And these are staff responses  
12 to written comments we received from Peter Weiner after  
13 the Committee meeting. Very quick -- soon after. So we  
14 appreciate the sentiment that the Board members expressed  
15 at the Committee meeting that obviously this framework is  
16 going to be the subject of a lot of debate and  
17 wordsmithing if and when it gets into the form of a  
18 legislative -- of a bill; and that the Board is, you know,  
19 I think doing a great job of trying to strike a balance in  
20 all these interests. But we did feel obligated to  
21 summarize Mr. Weiner's comments. And there were a fewer  
22 areas where we thought it would be worth changing the  
23 framework to provide some additional clarity.

24           Most of his comments concern the debate that will  
25 go on about what is the right range of shared

1 responsibility. And we have not really made any changes  
2 in the framework in response to those comments.

3           So with that, let me turn it to Kathy. She'll  
4 run through Exhibit 3, our suggested additional changes.  
5 And if you so direct, then we would incorporate those into  
6 Attachment 1.

7           MS. FREVERT: Good morning, Madam Chair and  
8 members of the Board. AS Howard mentioned, I'm here to  
9 cover the written comments that staff received after the  
10 Committee meeting along with the Board staff responses.  
11 And these are contained in Exhibit 3.

12           The proposed changes have not been incorporated  
13 into the EPR framework. And that is pending direction  
14 today.

15           I am prepared to walk through all the comments  
16 one by one, or I can focus on the main -- or I can focus  
17 on comments where staff poses an edit to the EPR  
18 framework, which is Attachment 1.

19           And I don't know if there's any preference for  
20 how I proceed.

21           BOARD MEMBER MULÉ: I think we're waiting for our  
22 Vice Chair to --

23           SUSTAINABILITY PROGRAMS DIRECTOR LEVENSON: We'll  
24 hold for a moment.

25           VICE CHAIRPERSON DANZINGER: I'm sorry. What?

1 MS. FREVERT: In terms of Exhibit 3, I can either  
2 walk through the comments one by one or I can focus on the  
3 comments where staff proposes a change to the EPR  
4 framework.

5 VICE CHAIRPERSON DANZINGER: Oh, I mean I  
6 don't -- I would just think that the changes, unless  
7 somebody wants to hear all the other stuff first.

8 Okay, yeah, just the changes. Thanks.

9 MS. FREVERT: Okay. Then referring to Exhibit 3,  
10 the first comment, No. 2 -- and this refers to the EPR  
11 framework, page 1, line 39. And this comment would  
12 identify other stakeholders who may use product  
13 stewardship plans. Staff concurs and recommends adding  
14 the proposed changes. The new language, beginning on line  
15 39 of the revised attachment, would then read, "The use of  
16 product-specific stewardship plans would be a key  
17 component to provide producers, retailers, haulers,  
18 recyclers, and other entities in the product chain with  
19 the flexibility to customize programs for specific  
20 products."

21 SUSTAINABILITY PROGRAMS DIRECTOR LEVENSON: Just  
22 to make sure everyone's following in the audience, the  
23 specific changes are in the third -- or the final column  
24 under CIWMB staff responses. You'll see them in underline  
25 or strikeout. So that's what we're proposing to add in

1 today.

2 BOARD MEMBER PEACE: Just let me find that,  
3 because I don't know if I agree with that.

4 Well, I guess -- I guess my thought is the  
5 producer's the one that's supposed to be coming up with  
6 the product stewardship plan. So it's not really a  
7 hauler's plan or the --

8 MS. FREVERT: This one though is making reference  
9 to who may use the product stewardship plans, rather than  
10 who's making them. There are other comments that put  
11 equal responsibility on developing. And those we are not  
12 suggesting be changed.

13 BOARD MEMBER PEACE: So that obviously makes  
14 sense to you since you're -- okay.

15 MS. FREVERT: Okay. The next comment where we  
16 have a change is Comment 7. And this is on page 3,  
17 results-based program, line 127. And on this one  
18 staff -- when we read the paragraph, we noticed that the  
19 term "brand owners" appeared. And for consistency, that  
20 should say "producers." So the change is not necessarily  
21 in response to the comment, but it is a change that is  
22 needed. So the recommendation then is to strike "brand  
23 owners" an insert "producers."

24 The next line where there is a change is in  
25 reference to Comment 10. And this is on page 4, line 152.

1 Staff concurs with the suggestion to change "mostly" to  
2 "primary" and recommends adding the proposed change. So  
3 the new language would be: "This definition is similar to  
4 the definition used by the Product Stewardship Institute  
5 in recognizing shared responsibility but one that lies  
6 primarily with the producer."

7           The next, Comment 11, page 4, line 153. This  
8 comment would add haulers to the list of stakeholders in  
9 the product chain. And staff concurs and recommends  
10 adding the proposed change. So the sentence beginning on  
11 line 153 would state, "The reference to the product chain  
12 includes but is not limited to producers (see Definition  
13 B, Producer), retailers, haulers, consumers, recyclers,  
14 and local governments."

15           The next comment is 18. And this refers to page  
16 9, line 330. And this comment expands the scope for  
17 penalties. Penalties would be defined in regulations that  
18 would be developed following enactment of statute. And  
19 they may or may not apply to other stakeholders besides  
20 producers. So staff proposes adding "other stakeholders."  
21 So the new language beginning on line 330 would read,  
22 "financial, seek reimbursement for oversight and  
23 enforcement services, perhaps through product registration  
24 fees. Penalties should be considered if producers or  
25 other stakeholders fail to meet established requirements

1 or, conversely, financial incentives may be offered for  
2 meeting or exceeding program requirements."

3           The next comment, 19, this is page 9, line 350,  
4 this comment is similar to one for retailers. And that's  
5 providing more equal roles and responsibilities. In this  
6 respect it's similar to the shared responsibility. And  
7 our comment here is actually with the heading for that.  
8 We only have physical, and it actually deals with system  
9 effectiveness too. So the change is to change the heading  
10 to "physical or system effectiveness." So that's just a  
11 heading change.

12           And that same type of comment will apply below to  
13 Comment 21. I'm sorry, I jumped ahead there though. So  
14 let me stack back.

15           Comment 20 -- oh, I take it back -- 20, there is  
16 no change. I'm sorry.

17           Twenty-one is similar to the one I just mentioned  
18 where there is a heading change. So the change is to  
19 change "physical" to "physical or system effectiveness."

20           And then the last one is on Comment 22. This is  
21 page 10, line 388. Staff proposes modification. This is  
22 a topic heading and it is inclusive of all relevant  
23 entities. However, for consistency, staff proposed adding  
24 the word "extended." So the new language on line 388  
25 would read, "establish overall extended producer

1 responsibility regulations." So some fine-tuning there.

2 And that's it for the changes.

3 SUSTAINABILITY PROGRAMS DIRECTOR LEVENSON:

4 That's the extent of the additional changes that  
5 we are proposing. And pending your direction, we would go  
6 ahead and revise the framework.

7 I do want to note for the record that we received  
8 about -- we received a couple of letters this morning just  
9 shortly before 9 o'clock from I believe it was RCRC and  
10 from CPSC generally in support. CPSC did have note that  
11 they wished to go on record as disagreeing with us in a  
12 couple of areas of the framework, but that that they  
13 supported the adoption of the framework. And those  
14 letters were sent to you as well, but I don't know if  
15 anybody had a chance to see them.

16 CHAIRPERSON BROWN: Thank you, Howard.

17 SUSTAINABILITY PROGRAMS DIRECTOR LEVENSON: With  
18 that, staff concludes its presentation. And we recommend  
19 that you adopt Option 1 and approve Resolution 2008-15 --

20 CHAIRPERSON BROWN: Okay.

21 SUSTAINABILITY PROGRAMS DIRECTOR LEVENSON: -- is  
22 the correct number.

23 CHAIRPERSON BROWN: Any questions?

24 We do have one speaker.

25 Peter Weiner.

1           MR. WEINER: As a person at least of Mr. Larson's  
2 vintage, I would like to go on record as embracing the  
3 Brenda Lee mantra here.

4           (Laughter.)

5           MR. WEINER: Thank you so much. And I'd like to  
6 thank staff profusely for their very thoughtful and  
7 thorough consideration of what we submitted.

8           I do have a problem with my last name. I've had  
9 it all my life. That's the way last names are for some of  
10 us. But I would like to say it's WEI rather than IE. So,  
11 anyway.

12           Thanks so much for the consideration. We  
13 understand the tightrope that staff and the Board has been  
14 walking with regard to the balance between putting all  
15 responsibility on producers and saying it's all shared.  
16 We understand the Board's decision that for purposes of  
17 affecting product design that certain responsibilities  
18 should be placed on producers. But we also know or think  
19 that the Board has in mind significant interaction by  
20 other stakeholders in this process.

21           We continue to respectfully believe that the way  
22 this has now been coded in the document, that all -- that  
23 the producers of the world -- and we're up here, but there  
24 are many other producers who have appeared at various  
25 times -- will see this as the blank checkbook approach to



1 them. You guys pay the costs. If you can get others to  
2 share, that's great. But otherwise it's all on you. And  
3 I think that will cause problems for producers.

4 The other problem is this. I've been involved in  
5 a very intense mediation lately. And one of the things  
6 the mediator said is "No mediation takes place  
7 successfully unless everyone has skin in the game."  
8 Everybody has to have some stake that they can lose.

9 And the way that this particular policy has been  
10 stated is one where, I believe at least very close reading  
11 says, that while haulers and retailers, for example, are  
12 encouraged to participate, they don't have skin in the  
13 game, that it's on the producer to get them to  
14 participate. And if they say no, they say no.

15 So I would urge you as you go forward with this  
16 to consider that, that you need to have everyone with some  
17 skin in the game. That doesn't necessarily mean a complex  
18 regulatory function for all of you, where you are trying  
19 to regulate lots of people. There are other ways to  
20 achieve that. But I do think it would be wise to achieve.

21 Very specifically, staff in the response to  
22 Comment 3 on this Exhibit 3, second addendum, notes that  
23 end-of-life responsibility from their point of view is  
24 important to put on the producer so that those end-of-life  
25 costs will be reflected in the way the producer designs

1 the product.

2           And at this point not speaking for a client but  
3 trying to speak from a 20,000 foot view, what I would say  
4 is that, yes, if you put the actual recycling costs on the  
5 producer, that is, incorporate it in the cost of the  
6 product, I can see how that would affect design. But to  
7 put the costs of collection and transportation on the  
8 producer, so that the producer has to set up a separate  
9 store to take it back or the producer has to pay people to  
10 take it back, may not be the right primary allocation. It  
11 may not result in retailers, the waste hauling industry  
12 and others, stepping up to the plate to do what they can  
13 do to make it easier to collect and transport these  
14 materials.

15           So I would hope that we can parse that a little  
16 bit in the future as we go forward on this issue, so that  
17 we start taking a look at some of the separate functions,  
18 such as collection and transport, and where to effectively  
19 and cost effectively put responsibility for those issues.

20           We love that the Board is considering this kind  
21 of policy and the breadth and depth to which it has gone  
22 in doing so. And we look forward to working with you.

23           Thank you very much.

24           CHAIRPERSON BROWN: Thank you, Peter.

25           I actually -- Bill is anticipating he's the next

1 speaker. But I did have something that I don't know if  
2 it's the appropriate time to comment, but maybe it is with  
3 Peter's comments. And your comments to me specifically  
4 address recycling of materials. And I think what we're  
5 trying to get at here with extended producer  
6 responsibility is more sustainable design of materials.  
7 And it calls to mind -- and I wish I had my prop. But  
8 there is a phenomenal article in yesterday's paper out of  
9 the Detroit auto show, which looked at the car companies  
10 who are now looking at more sustainably designing  
11 automobiles to meet fuel efficiency standards. And they  
12 specifically were talking about nonpetroleum-based soy  
13 foam that's now being used in the seats of cars. They're  
14 a light-weighting material in order to improve fuel  
15 efficiency by using plastic bottles.

16           So those are the kind of things that I think are  
17 innovative. And this discussion about extended producer  
18 responsibility causes manufacturers -- and maybe not  
19 compact fluorescent bulbs and you probably -- and  
20 potentially have designed what you can out of it  
21 sustainably. But this kind of discussion is getting  
22 manufacturers, along with biofuels and, you know, all the  
23 other things that are going on in green design, to looking  
24 at new materials and better design. And the recyclability  
25 of these vehicles at their end of life is easier now that

1 the materials that they're using are more sustainable.

2 So if anybody didn't see the article, it was  
3 fascinating. It's a short read, which is good for me.

4 But, anyway, I do want to say fabric, the lining  
5 of roofs, everything in these automobiles they're looking  
6 at. So that's the kind of stuff we're looking at at EPR.

7 With that --

8 BOARD MEMBER MULÉ: Thank you, Madam Chair.

9 CHAIRPERSON BROWN: -- hey, Bill, come on  
10 forward.

11 Thanks, Peter.

12 MR. MAGAVERN: Thanks. And good morning. I'm  
13 Bill Magavern with Sierra Club California.

14 I just wanted to very briefly reiterate our  
15 support for this framework. It's past time that we  
16 changed the paradigm from producers just sending their  
17 products out into the market willy-nilly and then leaving  
18 the consumers and the local governments to take care of  
19 them when they become waste, with all the costs that that  
20 involves, to actually having the producers take  
21 responsibility. And I really concur with the Chair's  
22 comments that designing for the environment is crucial at  
23 the front end, and that that really is going to change the  
24 game here.

25 So I think clearly you, as a board, get it on how

1 important this is. And now we need to take that message  
2 to the Legislature to give you the authority to take the  
3 steps that we all know are needed. So I look forward to  
4 working with you in that effort.

5 BOARD MEMBER PETERSEN: Madam Chair, I just --

6 CHAIRPERSON BROWN: Thank you very much, Bill.

7 BOARD MEMBER PETERSEN: Thank you, Bill. Great  
8 comments.

9 The design of packaging or whatever the products  
10 might be from the get-go, if we go down this path, it will  
11 reduce the costs on the collection side and the processing  
12 side downstream where we have to take care of this.

13 So it's all inclusive. It's a systems approach  
14 to how we're going to do this. So for me, there's still  
15 the cost of us recyclers out in the street, trying to make  
16 stuff happen and collect this stuff and getting paid or  
17 recovering the costs to recover the materials and make it  
18 happen. So, anyway, I just wanted to throw that out.

19 CHAIRPERSON BROWN: Thank you, Gary.

20 Cheryl.

21 BOARD MEMBER PEACE: I just wanted to say in  
22 response to Peter's comments, I think we addressed some of  
23 your concerns by saying it is a shared responsibility  
24 between producers, retailers, haulers, you know, local  
25 government. But it has to be the primary responsibility

1 of a producer, because they're the ones that are primarily  
2 responsible for the design. And they are also the ones  
3 that can build the costs of the end of life into the  
4 products that they sell. You know, haulers and local  
5 governments can't recover their costs for end-of-life  
6 management.

7 And then on another subject. I would like to say  
8 I am still so concerned about the exemption language, how  
9 that was added in -- you know, after we approved the  
10 original EPR framework that was passed in September, that  
11 we've added that in. And I have to say I'm still very,  
12 very concerned with that language. And I would like for  
13 you to tell me why it needs to be there. And can you give  
14 me an example?

15 MS. FREVERT: I guess I can try to give an  
16 example of how it potentially could be.

17 If you look at a standard, first of all, the idea  
18 is to have a very high standard. This isn't something  
19 that could easily be achieved. And so it would give an  
20 option where if you were a producer and your product was  
21 selected, that you could go with the EPR approach that's  
22 laid out and could prepare a plan. Or perhaps your  
23 product already -- or received some certification, it  
24 could be from another group. We could add different  
25 qualities to that standard or criteria to the standard.

1           If you take, for example, computers. There is a  
2 standard called EP, electronic products environmental  
3 assessment tool. And with that, there's been a real drive  
4 for computer manufacturers to put in some green design  
5 elements into their computers. Now, I'm not saying you'd  
6 just take something like that outright and say, "Oh, it's  
7 EP certified. It doesn't have to go through a producer  
8 responsibility path and create product stewardship plans."  
9 Because you'd want to make sure that it was actually  
10 practiced and achieving your goals.

11           For example, EP does have a requirement for  
12 take-back. So if you have an EP certification, your  
13 company has to offer take-back of computers.

14           Well, is that actually practiced? You know, so  
15 you'd want to have some level of verification that it's  
16 actually happening.

17           I'm just trying to give an example of -- you  
18 could have a national standard or international standard.  
19 You could add additional criteria to it. You could have  
20 third-party certification to make sure it's really  
21 happening. You could really make it a solid approach.  
22 And that might give an incentive to manufacturers to  
23 create environmental standards. It might help drive that  
24 whole field of creating environmental standards --

25           BOARD MEMBER PEACE: But if they have all those

1 things, then that would be, in essence, having an extended  
2 producer responsibility plan of their own. And our  
3 regulations just say they either have to have one  
4 collectively or they have one on their own.

5 I guess what I'm very uncomfortable with is  
6 that -- you know, I realize this is just a framework. I  
7 realize it's going to get changed and modified many times  
8 as it goes through the legislative process. I understand  
9 what you're saying, that -- you know, some can say an  
10 exemption avenue can be an incentive for product  
11 manufacturers to do better, greener job of product design  
12 and packaging. The European Union says having an EPR  
13 policy that requires end-of-life management is the  
14 incentive for product manufacturers to develop greener  
15 products.

16 What we do -- we need to make clear that any  
17 exemption would be based on environmental criteria that  
18 takes the products complete life cycle into consideration.

19 I want -- what I don't want is for this exemption  
20 language coming from this Board to be the language of  
21 unintended loopholes, ones that manufacturers try to  
22 broaden as an EPR policy goes through the legislative  
23 process.

24 So I guess as a precaution what I would like -- I  
25 would like to propose the following language. And I think



1 I just passed it out to everyone. And as you can see, I  
2 did --

3 CHAIRPERSON BROWN: Do we have that -- does the  
4 staff have it and Mark and Julie and -- because we can't  
5 go forward if they don't have a copy to review.

6 So hold on one second.

7 BOARD MEMBER PEACE: I understand what you're  
8 saying, and we will develop -- I understand we will be  
9 developing criteria. But I'm also very concerned that  
10 having this language in there, like I said, could become a  
11 loophole as it goes through the legislative process. So  
12 what at least -- I would like to do away with the whole  
13 thing. But if nobody else is in that frame of mind, I  
14 would like to at least strike out the part where it says,  
15 "and approved environmental certification standards."  
16 Because to me that means when I go to the website for  
17 Green Seal, they have a whole set of environmental  
18 standards that says, "Green Seal bases its work on  
19 thorough state-of-the-art scientific evaluations using  
20 internationally accepted methodologies. Product  
21 evaluations are conducted using a life cycle approach to  
22 ensure that all significant environmental impacts of a  
23 product are considered, from raw material extraction,  
24 through manufacturing, to use and disposal."

25 Well, that's their policy, you know, and it

1 sounds absolutely wonderful and kudos to Green Seal. But  
2 when you go to what you have to do for, say, getting that  
3 certification for paint, it says, "If a paint  
4 manufacturer's product meets Green Seal's environmental  
5 certification standards..." So after going through Green  
6 Seal's testing process, then the product manufacturer must  
7 put this statement on his product. It says, "This product  
8 meets Green Seal's environmental standards for volatile  
9 organic compounds and other ingredients. The packaging  
10 shall also be accompanied by a brief statement  
11 discouraging disposal into drains and encouraging  
12 consultation with local authorities for disposal  
13 requirements for recycling opportunities."

14 That to me is saying local government still bears  
15 the burden of end-of-life management. And I don't think  
16 that is what we're talking about here. I think we're  
17 talking about the whole life cycle. So even though Green  
18 Seal is saying they're taking the life cycle into  
19 consideration, they're just saying contact your local  
20 government for the best way to recycle paint.

21 So, to me, saying that an approved environmental  
22 certification standard would be something that we could go  
23 by creates a loophole that I am just very uncomfortable  
24 with.

25 MS. FREVERT: Just one comment on that. I agree

1 that if you just look at the words "approved environmental  
2 certification standard," it's missing the qualification  
3 that it has to be approved by the Board, that you wouldn't  
4 just take any existing standard out there.

5 BOARD MEMBER PEACE: Right. Or if you take a  
6 standard, it has to demonstrate by conferring the  
7 exemption that it would result in compliance with all the  
8 EPR goals.

9 MS. FREVERT: Yeah. And I think that that change  
10 would be --

11 BOARD MEMBER PEACE: Even though it says, I know,  
12 elsewhere in the back that we're going to come up with  
13 these things, I think saying that right here is closing  
14 that loophole, so when it does go to the Legislature,  
15 somebody can't take that out of context or say this is,  
16 you know -- this came from the Board, this language came  
17 from the Board, because that is not our intention.

18 CHAIRPERSON BROWN: Okay. That's fine.

19 SUSTAINABILITY PROGRAMS DIRECTOR LEVENSON: Staff  
20 is comfortable with that. We would like to keep the last  
21 sentence in if we could.

22 CHAIRPERSON BROWN: I was going to say what's the  
23 benefit of taking out the last sentence though? I think  
24 it just --

25 BOARD MEMBER PEACE: I'm okay with leaving it in.

1 To me, it's like gobbledygook. I don't think we need it.  
2 I think everything is specified. I don't think it's  
3 needed, but it's okay if -- if you feel like we need to  
4 leave it in, that's okay with me.

5 SUSTAINABILITY PROGRAMS DIRECTOR LEVENSON: It  
6 gives more specificity as to what the real process would  
7 be post-regulations.

8 BOARD MEMBER PEACE: Well, that's why I said it  
9 would be developed as part of the regulation process  
10 following enactment of statute. I thought that would say  
11 enough. But if you feel more comfortable, I can live with  
12 that.

13 SUSTAINABILITY PROGRAMS DIRECTOR LEVENSON: Well,  
14 just so everybody understands, there's really two  
15 post-legislative parts. One is the development of general  
16 regulations that establish procedures criteria, so on and  
17 so forth. After that we would then have to select product  
18 categories, bring them back to you. There would have to  
19 be discussions, development of plans, and so on. And  
20 that's where you would actually -- you'd set up exemption  
21 criteria in the regs. But consideration of a specific  
22 exemption would be for one product category later on. So  
23 this would --

24 BOARD MEMBER PEACE: I'm okay -- if you think  
25 that's important, I'm okay with leaving that in.

1           CHAIRPERSON BROWN: So we'll submit -- I'll read  
2 into the record -- and correct me if I'm wrong. What  
3 we're doing is adding "The Board may consider" -- strike  
4 "provide" -- "a means for individual manufacturers to be  
5 exempt from the EPR requirements for certain or select  
6 products that conform to special environmental criteria  
7 where it can be demonstrated that conferring the exemption  
8 would result in compliance with all EPR goals. General  
9 procedures and criteria for making exemption  
10 determinations would be developed as part of a regulatory  
11 process following the enactment of statute. Whether an  
12 individual manufacturer's product would be exempt would be  
13 considered as part of the process to select product  
14 categories and as part of the Board's evaluation of a  
15 proposed product stewardship" --

16           BOARD MEMBER PEACE: Thank you, Madam Chair.

17           CHAIRPERSON BROWN: -- "plan."

18           BOARD MEMBER PEACE: Oh, that would -- yeah,  
19 plan. Because in the wording we didn't put the plan, but  
20 yeah, it should be there.

21           CHAIRPERSON BROWN: So it's the proposal, and we  
22 just left in the last sentence.

23           Do we have any objections to that change?

24           Okay. Any other questions, comments regarding  
25 the framework as proposed?

1           BOARD MEMBER CHESBRO: My only general comment  
2 would be that -- with regard to Peter's concerns. You  
3 know, we're at one end of the spectrum totally where all  
4 of the responsibility's at the local level. And I can't  
5 imagine us ever being in this situation where all of the  
6 responsibility's going to wind up on the manufacturers.  
7 So I think we're trying to create some balance in a system  
8 which has been out of balance for decades.

9           CHAIRPERSON BROWN: Exactly.

10          Agreed.

11          BOARD MEMBER PEACE: I just had one other minor  
12 comment on page 5. I brought it up at the Committee  
13 meeting, where it said, "A stewardship organization is a  
14 corporation." Now, is that our intention to require that  
15 they all be corporations, that they should all be  
16 corporations and not an entity? I'm okay either way. I'm  
17 just wondering if we're limiting ourselves by saying  
18 corporation or that's what we really intend.

19          MS. DUNN: Yes, thank you. Cynthia Dunn.

20          We did do some initial -- pardon my voice --  
21 initial research on that. And we think that it would be  
22 as a result of -- this is a guidance document. And we can  
23 further clarify that if necessary down the line in the  
24 further processes, like at the legislation or our  
25 regulation development.

1           We have found that many are corporations. But,  
2 again, we haven't -- we don't have a definitive response  
3 right now. But we feel that that could be addressed just  
4 fine later on.

5           BOARD MEMBER PEACE: So staff feels more  
6 comfortable leaving it "corporation" instead of "entity"?

7           MS. DUNN: We could change it to "entity" if  
8 that's what you would direct. Or we could let Harllee,  
9 our legal --

10          STAFF COUNSEL BRANCH: Using "entity" would be  
11 fine.

12          This is Harllee Branch. I'm counsel with the  
13 Board.

14          CHAIRPERSON BROWN: Change it to "entity".

15          Any other -- okay.

16          With the included language changes, can I have a  
17 motion on the resolution?

18          BOARD MEMBER MULÉ: Madam Chair, I'd like to move  
19 Resolution 2008-15.

20          BOARD MEMBER PETERSEN: I'll second that.

21          CHAIRPERSON BROWN: It's been moved by Member  
22 Mulé, seconded by Member Petersen.

23          Kristen, can you call the roll.

24          BOARD SECRETARY GARNER: Chesbro?

25          BOARD MEMBER CHESBRO: Aye.

1 BOARD SECRETARY GARNER: Danzinger?

2 VICE CHAIRPERSON DANZINGER: Aye.

3 BOARD SECRETARY GARNER: Mulé?

4 BOARD MEMBER MULÉ: Aye.

5 BOARD SECRETARY GARNER: Peace?

6 BOARD MEMBER PEACE: Aye.

7 BOARD SECRETARY GARNER: Petersen?

8 BOARD MEMBER PETERSEN: Aye.

9 BOARD SECRETARY GARNER: Brown?

10 CHAIRPERSON BROWN: Aye.

11 Thank you. The resolution passes.

12 Okay. I think we're looking at Item 15 and then

13 6.

14 So can we move to Item 15, Howard, and do

15 biofuels and then...

16 SUSTAINABILITY PROGRAMS DIRECTOR LEVENSON: Thank

17 you, Madam Chair. And thank you for your support on the

18 previous item.

19 Item 15 is the Consideration of a Scope of Work

20 for a Research and Demo Project for BioEnergy and Biofuels

21 Production.

22 Clark Williams is coming up, and he'll be

23 assisting Brenda and myself.

24 At the Committee meeting last week we had quite a

25 bit of discussion about this scope of work. And we did go



1 ahead and -- we got some direction from the Committee and  
2 we went ahead and made a number of changes to the item and  
3 the scope to reflect the following:

4           We established a size -- a minimum floor for size  
5 of five to seven tons per day, but would provide bonus  
6 points or preference points for larger sizes of  
7 facilities. We made the item and the scope of work  
8 technology neutral. We identified the eligible feedstocks  
9 as being post-MRF residual. We also added in, and subject  
10 to your direction, selected source separated materials,  
11 such as food waste. So that's something we need your  
12 direction as to whether that's appropriate or not to  
13 include that; and whether that should be just food waste,  
14 i.e., or such as food waste, e.g., the difference between  
15 "for example" or "that is". I can explain that.

16           (Laughter.)

17           SUSTAINABILITY PROGRAMS DIRECTOR LEVENSON: But  
18 it does make a difference in terms of who can apply.

19           We clarified that the products of such  
20 demonstration projects could be bioenergy or biofuels.  
21 That in terms of the outreach, we weren't talking about  
22 providing proprietary information but more just making the  
23 project accessible so that we and the public could see  
24 what was going on.

25           We fixed some of the language on mass balances

1 and indicated that the project priorities would include  
2 the fact that the facility had to be displayed during the  
3 contract, it would be in California, larger size would be  
4 preference, that we wanted to have the ability to gather  
5 environmental data, and that we would be seeking really  
6 our funding being an assisting in the partnering of these  
7 projects. So that's some of the major changes that we  
8 made.

9           There is a -- in the item there's a section on  
10 page -- excuse me -- page 4 towards the bottom on  
11 preference points, where we suggest that preference points  
12 will be given to using post-MRF residuals, preference  
13 points to the size of the project, the amount of external  
14 funding and source-separated feedstock. I think we do  
15 need a little bit of direction on whether those should be  
16 preference points for the post-MRF residuals and the food  
17 waste oh simply those are eligible -- those are the only  
18 kinds of feedstocks that would be eligible for  
19 consideration.

20           At the Committee meeting we also talked about the  
21 issue that we may have to go down the route of an  
22 interagency agreement, and we would seek delegation to the  
23 Executive Director to go ahead and make that decision and  
24 approve the scope of work. We still would come back to  
25 you with an award item for your consideration.

1           And, lastly, there were some changes based on  
2 discussions with the Legal Office about trademark language  
3 modifications. And that is it.

4           So we're happy to answer any questions. There  
5 may be some discussion -- further discussion on any of  
6 these points.

7           We do need to just make sure that we're clear on  
8 whether we're going to just make post-MRF residuals and/or  
9 food waste -- whatever was going to be eligible and  
10 whether there should be preference points for those  
11 feedstocks. So we're happy to limit that to post-MRF  
12 residuals.

13           BOARD MEMBER PETERSEN: Madam Chair?

14           CHAIRPERSON BROWN: I've got to balance here.

15           The Senator had a comment first.

16           BOARD MEMBER CHESBRO: Well, without rehashing  
17 the whole discussion that we had previously, which I'm not  
18 suggesting that we do, I'd just like to kind of briefly  
19 stake out my concerns.

20           My main concern with this does have to do with  
21 the hierarchy. And I think you can make the case that  
22 proceeding along these lines is consistent with the  
23 hierarchy if you're trying to target waste streams that  
24 don't have higher and better uses further up the  
25 hierarchy. And the more broadly you write this, the less

1 able I am to support it. If we're talking about post-MRF  
2 residual, I think you can make a case -- a pretty clear  
3 case. I think it gets a lot fuzzier the further up -- or  
4 the broader you define the feedstock.

5 CHAIRPERSON BROWN: Gary.

6 BOARD MEMBER PETERSEN: Just on the preference  
7 points, Howard.

8 We wouldn't give preference points to -- we're  
9 asking for utilizing post-MRF residuals as feedstock and  
10 selected source-separated feedstocks. That's what we're  
11 calling for. But we'd give preference --

12 CHAIRPERSON BROWN: Let me clarify though. At  
13 Committee we eliminated specific source-separated  
14 materials for the time being and only did post-MRF  
15 residuals. There a question on the table about whether we  
16 want to go back and allow that or whether we want to go  
17 back and allow certain things.

18 BOARD MEMBER PETERSEN: That's not my question.

19 CHAIRPERSON BROWN: Okay. I just want --

20 BOARD MEMBER PETERSEN: Just the size of the  
21 project and the amount of external matching fund sources,  
22 wouldn't -- those would be preference points, right?

23 SUSTAINABILITY PROGRAMS DIRECTOR LEVENSON:

24 Correct. Based on what I'm hearing today, we  
25 would limit the eligibility of this project to post-MRF --

1 the feedstock would have to be post-MRF residuals. We  
2 then would not have to give any preference points or  
3 anything for feedstock. It would simply be size of the  
4 facility, ability to leverage funds.

5 BOARD MEMBER PETERSEN: Right. Great.

6 Thank you, Howard.

7 CHAIRPERSON BROWN: Okay. Any other questions?

8 So I believe the will of the Board is to go with  
9 post-MRF residuals on this particular scope of work.

10 Okay. Any other questions?

11 Cheryl.

12 BOARD MEMBER PEACE: I would agree with that.

13 I just had a comment.

14 I think we all know that \$500,000 is not a lot of  
15 money even for a demonstration project. But what I hope  
16 this grant does is send the message that this Board is  
17 looking for new ways to achieve zero waste, that we're  
18 looking for new solutions to reduce global warming, and  
19 we're looking for new ways to create energy and fuels out  
20 of waste that would otherwise end up in a landfill.

21 SUSTAINABILITY PROGRAMS DIRECTOR LEVENSON: And I  
22 apologize. I forgot to mention that we received a letter  
23 from Michael Theroux, yesterday, I believe. And Michael  
24 had three comments, two of which we do think are worth  
25 additional changes. So I can just quickly walk through

1 those. You should all have a copy of that at the dais.

2 His first comment about budgetary and time  
3 constraints, there's nothing we can do to change the scope  
4 or the fact that we operate under state contracting  
5 procedures and we have to expend the funds within a  
6 certain timeframe. So that's something we can explain to  
7 Michael on the side, but it's nothing that we can change.

8 The second comment was to add in the phrase --  
9 make the phrase "optimize electric and/or fuels  
10 production." And we believe that's consistent with what  
11 the Board discussed at the Committee and today.

12 And then the third comment would be to change the  
13 last part of the phrase to -- instead of saying,  
14 "feedstock, energy or liquid fuels produced," it would  
15 say, "feedstock, electric and/or thermal energy, liquid  
16 and/or gaseous fuels." So that again reflects the  
17 technology neutral discussion that you had and directed us  
18 to incorporate into the scope.

19 So with your direction, we would go ahead and  
20 incorporate those changes as well.

21 CHAIRPERSON BROWN: Okay. Thank you.

22 And we have one speaker, Greg Shipley, BioEnergy  
23 Development.

24 MR. SHIPLEY: Thank you, Madam Chair. Greg  
25 Shipley with BioEnergy Development.

1 BioEnergy Development is a new entity that is a  
2 sister company of our development company, Waste To  
3 Energy.

4 We've recently entered into a crate agreement  
5 with the USDA Western Regional Labs in the Berkeley area.

6 And for Board Member Peace, we are -- some of our  
7 long-term goals are to produce plastics -- bioplastics out  
8 of the C-5 sugars. So going with the full concept of full  
9 life cycle analysis.

10 At any rate, Waste To Energy was one of the two  
11 finalists in the Santa Barbara County bid process that  
12 took five years. It is now being retooled. But we were  
13 the last company standing in that. And one of the  
14 provisions that caused this downfall was that Santa  
15 Barbara County wanted to have us permit our pilot plant as  
16 a precondition to being considered for a contract. Our  
17 part of that -- our cost was approximately \$500,000. I  
18 commend the Board on stepping up to the plate and  
19 providing approximately \$400,000 toward that project, even  
20 though it didn't go far enough.

21 We tried to get some matching funds through the  
22 county to at least split the cost with us. That did not  
23 happen. So it's being retooled.

24 I'm glad that it did, however, even though it  
25 took five years for us to go through that process.

1 Because I think it sets a bad precedent. By having a  
2 municipality do a pre-permitting exercise for the purposes  
3 of being considered for a contract is not the correct way  
4 to go. It sets a high standard.

5 I think the way that you're going now is a much  
6 better way of going. And this is one of the reasons why  
7 we've decided to consolidate our pilot plants from around  
8 the country into one facility in the Berkeley -- actually  
9 it's on the U.S.D.A. Federal Lab campus. And the reason  
10 that we're doing that is so that we can have some place  
11 for the regulators in Sacramento, the Air Resources Board,  
12 the Water Board, the Waste Board and others, where there's  
13 one place that everyone can come and kick some tires. And  
14 we'll find out about the air pollutants and the water  
15 effluence and that sort of thing.

16 And even though some of the language in your  
17 resolution here may or may not preclude us from actually  
18 participating, I would like to make the following  
19 suggestions: That instead of making it more specific,  
20 i.e., food waste, that you might -- that you may want to  
21 go more broad in that regard, because this demonstration  
22 project will not only benefit the Waste Board but it will  
23 also benefit conversion technologies and other boards that  
24 have a stake in that process, i.e., through the bioenergy  
25 plan -- action plan.



1           The other point that I wanted to make was that --  
2 well I think I'm through with that.

3           At any rate, I would like to thank the Board for  
4 stepping up to the plate on this issue. I think it shows  
5 leadership at the state level. And I encourage you to  
6 vote "yes" on this.

7           Thank you.

8           CHAIRPERSON BROWN: Thank you, Greg.

9           Our next speaker is Mike Theroux. We have two  
10 more.

11           MR. THEROUX: Good afternoon, Madam Chair and  
12 Board members. And thanks to Howard for due diligence  
13 here on picking up a late, late letter regarding the three  
14 items that I had suggested. I am pleased with that.

15           I wasn't so much asking for clarification on the  
16 timelines for myself, however. The one bullet was not  
17 actually a request to change anything but rather to  
18 include a little bit better clarification in the document  
19 itself, so that those that might propose to this are very  
20 clear whether or not their ability to put a facility on  
21 line might jeopardize their funds. That was the point I  
22 was -- I probably didn't state it very well.

23           The only other thing that I would like to address  
24 if a caution. And that has to do with the Board's purview  
25 and what is waste. And it's a question of custody of

1 materials. When we include wording on source separated or  
2 source segregated, we get into that interesting area of  
3 state and federal waste management that says if I pick my  
4 discard materials apart and find some use for them before  
5 they get mixed with the common waste stream, they're not  
6 waste. And if they're not waste, they're not under the  
7 jurisdiction of the Waste Board.

8           We see this issue rising from the side of the  
9 agricultural facilities trying to address manure  
10 management and such because they're trying to question  
11 whether or not food waste is a waste under the  
12 jurisdiction of the Waste Board and therefore increases  
13 the permitting requirements from that side.

14           In this situation, if we are to pursue a question  
15 of whether or not a particular resource is a waste, that's  
16 appropriate. But once we determine that that material has  
17 not mixed with the municipal solid waste stream, however  
18 we do that, then that material or resource is not under  
19 the Board's jurisdiction, nor is it a federal waste.

20           I find that that issue is confused in our recent  
21 guidance document. And I'm working on trying to clarify  
22 that. But I do caution that we're mixing terms here and  
23 need to be careful about assuming that something that  
24 might be very, very useful as a resource in these ways is  
25 a priori, a waste under the jurisdiction.

1           Thank you.

2           CHAIRPERSON BROWN: Thank you.

3           I think -- we understand and we know what the law  
4 requires and what we have jurisdiction over. And I think  
5 we very specifically mentioned up here that this scope of  
6 work will only apply to post-MRF residuals, not  
7 source-separated materials. So we're not looking for  
8 things that are not under our jurisdiction to be part of  
9 the scope of work. We know there's a lot of technologies  
10 out there that are taking single-stream or  
11 source-separated materials that are not under our  
12 jurisdiction. We are not targeting those. We are  
13 specifically targeting post-MRF residuals.

14          MR. THEROUX: Excellent.

15          CHAIRPERSON BROWN: So I think that that is the  
16 clarification it seems like you were looking for.

17          MR. THEROUX: Yes, I think --

18          CHAIRPERSON BROWN: But, you know, we are clear  
19 that what we have jurisdiction over is solid waste that is  
20 destined for disposal.

21          MR. THEROUX: Well, I will be picking at that one  
22 and get back to the Board and staff on how it affects our  
23 guidance documents and such. There is a question of where  
24 we draw the line of custody. In particular, that is  
25 imperative the LEA to understand.

1 CHAIRPERSON BROWN: It's in statute Michael.  
2 It's pretty specific, and our guidance document is taken  
3 specifically from our statutes and requirements. And it  
4 just clearly restates statute.

5 So I think that Elliot is the expert on that  
6 guidance document. And any questions relative to that,  
7 that guy right there.

8 MR. THEROUX: The one I'll be working with.

9 Thank you very much.

10 CHAIRPERSON BROWN: The one that can answer it.

11 So thank you very much. I appreciate you being  
12 here and your comments and help in getting that  
13 fine-tuned.

14 Our last speaker is George Larson.

15 MR. LARSON: Madam Chair, members. George  
16 Larson. I'll be brief, because I was here to support  
17 staff's recommendation of inclusion of food waste.  
18 Apparently that's not going to happen.

19 End of testimony.

20 (Laughter.)

21 CHAIRPERSON BROWN: Thank you, George.

22 Okay. Any comments, questions?

23 BOARD MEMBER PETERSEN: Madam Chair, I'd like to  
24 move Resolution 2008-13 revised.

25 BOARD MEMBER MULÉ: Second.

1           CHAIRPERSON BROWN: It's been moved by Member  
2 Petersen and seconded by Member Mulé.  
3           Kristen, can you call the roll.  
4           BOARD SECRETARY GARNER: Chesbro?  
5           BOARD MEMBER CHESBRO: Aye.  
6           BOARD SECRETARY GARNER: Danzinger?  
7           VICE CHAIRPERSON DANZINGER: Aye.  
8           BOARD SECRETARY GARNER: Mulé?  
9           BOARD MEMBER MULÉ: Aye.  
10          BOARD SECRETARY GARNER: Peace?  
11          BOARD MEMBER PEACE: Aye.  
12          BOARD SECRETARY GARNER: Petersen?  
13          BOARD MEMBER PETERSEN: I'm here, yeah.  
14          CHAIRPERSON BROWN: I think that's an aye. And  
15 aye here too.  
16          Okay. I'm a little off my gauge on time.  
17          Our intention was to go to Item 6 before lunch so  
18 that we could go into closed session at the beginning of  
19 our lunch and render a decision after lunch.  
20          So if we could at least start and do that, can  
21 we -- I think Item 6 is Ted. So let's start with that.  
22          While we're gathering everybody, can we take a  
23 five-minute break while we change our dais. And we'll  
24 reconvene in about five minutes.  
25          SUSTAINABILITY PROGRAMS DIRECTOR LEVENSON: Madam

1 Chair, just on the last item. Thank you for the  
2 clarifications today. We'll be revising both items 12 and  
3 15 accordingly.

4 And I do want to thank Clark Williams and Ron Lew  
5 and Jacques Franco for all the scrambling they did on the  
6 last item as well.

7 Thank you.

8 CHAIRPERSON BROWN: Thank you, Howard.

9 (Thereupon a recess was taken.)

10 CHAIRPERSON BROWN: Okay. We're pretty close to  
11 our five-minute break.

12 So I think we need to recall the roll, Kristen.

13 BOARD SECRETARY GARNER: Chesbro?

14 CHAIRPERSON BROWN: We're reconvening.

15 BOARD SECRETARY GARNER: Chesbro?

16 CHAIRPERSON BROWN: Just say "here." Are you  
17 here?

18 BOARD MEMBER CHESBRO: Yes, I am.

19 BOARD SECRETARY GARNER: Danzinger?

20 VICE CHAIRPERSON DANZINGER: Here.

21 BOARD SECRETARY GARNER: Mulé?

22 CHAIRPERSON BROWN: She had to step out.

23 BOARD SECRETARY GARNER: Peace?

24 BOARD MEMBER PEACE: Here.

25 BOARD SECRETARY GARNER: Petersen?

1 BOARD MEMBER PETERSEN: Here.

2 BOARD SECRETARY GARNER: Brown?

3 BOARD CHAIRPERSON BROWN: Here.

4 CHAIRPERSON BROWN: Okay. Let's go ahead and go  
5 to Item 6.

6 Lorraine, is that you? Trevor? Who's going to  
7 start?

8 Who's going to start?

9 Ted.

10 WASTE COMPLIANCE & MITIGATION PROGRAM DIRECTOR

11 RAUH: Yes. My understanding is we'll lead this item off  
12 from --

13 CHAIRPERSON BROWN: I'm sorry. I take that back.

14 Okay. We have procedures here. Let me find  
15 them. Sorry.

16 We are now going to hold a public hearing on  
17 whether or not to impose penalties on the City of Cerritos  
18 for failure to implement its Source Reduction and  
19 Recycling Element. This hearing will be a little bit more  
20 structured than our typical agenda item hearings, and the  
21 process is laid out in Attachment 3 of this item which I  
22 will summarize briefly.

23 Am I going to summarize that briefly?

24 CHIEF COUNSEL BLOCK: No.

25 CHAIRPERSON BROWN: Oh, you wrote it for me.

1           Take that out.

2           In a moment I'm going to ask everyone that plans  
3 to testifies on this hearing to rise and be sworn in by  
4 the court reporter as a group. After that, our staff will  
5 make a presentation, during which the Board members may  
6 ask questions. Representatives of the City of Cerritos  
7 will then make a presentation, during which the Board  
8 members may ask questions. Both staff and the city will  
9 then have one more opportunity to present any information  
10 they wish to in rebuttal. After the presentations are  
11 concluded the Board will go into closed session to  
12 deliberate on a decision.

13           Unless any Board member has any questions, I'd  
14 like to ask everyone who plans to testify to stand and be  
15 sworn in.

16           Do we have any questions?

17           Okay. Can all those who -- there you go.

18           (Thereupon the witnesses were sworn,  
19 by the court reporter, to tell the truth,  
20 the whole truth and nothing but the truth.)

21           CHAIRPERSON BROWN: Thank you all.

22           Okay. Now, Item 6.

23           STAFF COUNSEL DYSON: Good afternoon, Madam  
24 Chair, Board members. My name is Tamar Dyson and I'm with  
25 the Legal Office. Today I'm going to give you a brief



1 legal framework for this proceeding and then Michael Chen  
2 is going to take on and present the item.

3 CHAIRPERSON BROWN: Thank you.

4 (Thereupon an overhead presentation was  
5 Presented as follows.)

6 STAFF COUNSEL DYSON: After a public hearing if  
7 the Board finds that there's been a failure of the  
8 jurisdiction to implement the Source Reduction and  
9 Recycling Element, or SRRE, Public Resources Code Section  
10 41825 provides that the Board will issue an order of  
11 compliance which will schedule -- which will include those  
12 conditions necessary to complete the order and the  
13 schedule for compliance.

14 In this matter the order was issued in February  
15 of 2007 at the Board meeting.

16 --o0o--

17 STAFF COUNSEL DYSON: This compliance order  
18 required that a local assistance plan be submitted and  
19 implemented by the jurisdiction. Public Resources Code  
20 Section 41850 provides that if the city of Cerritos failed  
21 to make a good faith effort to implement the order, the  
22 Board may impose penalties which could be up to \$10,000  
23 per day until the plan is implemented.

24 --o0o--

25 STAFF COUNSEL DYSON: So today the issues before

1 the Board are: Did the City of Cerritos fail to make a  
2 good faith effort to implement the local assistance plan?  
3 And if so, what would be the appropriate penalty to  
4 imposed for this failure?

5 --o0o--

6 STAFF COUNSEL DYSON: Just as an aside, PRC  
7 Section 41850.5 provides that any administrative penalty  
8 imposed under these statutes be deposited into local  
9 government assistance account, which is to be used to help  
10 local governments in complying with the diversion  
11 requirements. And it shall not be used by the Board for  
12 its administrative purposes.

13 --o0o--

14 STAFF COUNSEL DYSON: And now we would like to  
15 submit to the -- for formal inclusion into the  
16 administrative record a binder which contains the notice  
17 of hearing; proof of service of the notice; the agenda  
18 item and all the attachments, including copies of the  
19 letters and Emails that are outlined in Attachment 4,  
20 which is a schedule of the communications, and also proof  
21 of service of the agenda item and the attachments. And  
22 all of these items have been provided to the jurisdiction.

23 And now I'd just like to -- unless you have  
24 questions about the legal procedure, I'd like to turn it  
25 over to Michael.

1           MR. CHEN: Good afternoon, Madam Chair and Board  
2 members. My name is Michael Chen of the Jurisdiction,  
3 Compliance and Audit Section.

4           (Thereupon an overhead presentation was  
5 Presented as follows.)

6           MR. CHEN: The Board at its February 13th, 2007  
7 meeting issued Compliance Order IWMA BR07-02 to the City  
8 of Cerritos, in the County of Los Angeles, for not  
9 sufficiently implementing the diversion programs  
10 identified in its Source Reduction and Recycling Element,  
11 its SRRE.

12           The compliance order required the city to work  
13 with Board staff to determine gaps in existing program  
14 areas and to make recommendations on improving, expanding,  
15 or implementing new diversion programs. Board staff  
16 conducted a needs assessment meeting with the city and  
17 outlined the scope of a local assistance plan, an LAP.

18           The city agreed to the LAP on July 1st, 2007,  
19 meeting this requirement of the compliance order.

20           The compliance order also required the city to  
21 fully implement its LAP tasks by December 31st, 2007. The  
22 city requested a 90-day extension, which would move the  
23 deadline for full implementation to March 31st, 2008.

24           The Board found that the city did not provide  
25 good cause which supported approval of the time extension

1 requested and did not grant the city's request at the  
2 November Board meeting.

3           The Board further directed Board staff to prepare  
4 and bring forward an agenda item presenting the options  
5 for the Board, including the potential of imposing  
6 administrative civil penalties pursuant to Public  
7 Resources Code Section 41850, should the city fail to  
8 achieve full LAP implementation by December 31st, 2007.

9           Some elements of the LAP have been completed and  
10 some have not. These are detailed in the table "LAP  
11 Implementation Status" which begins on page 5 of the  
12 agenda item.

13           Board staff has conducted numerous site visits to  
14 the city, the most recent being on January 8th, 2008. At  
15 that site visit city staff informed Board staff that the  
16 three-bin residential curbside recycling and green waste  
17 program was not being implemented.

18           In the draft implementation timeline shown to  
19 Board staff on January 8th, 2008, the city's residential  
20 bin distribution would begin on February 25th, 2008, and  
21 pickup would begin on March 31st, 2008.

22           During the site visit on January 8th, 2008, Board  
23 staff also tested the implementation of the construction  
24 and demolition, C&D, ordinance. Board staff requested  
25 information from the planning counter concerning the

1 city's C&D diversion requirements, but board staff was  
2 given no C&D diversion information.

3           Also, during the site visit on January 8th, 2008,  
4 Board staff and city staff toured the facility where  
5 city's residential and commercial waste is processed.  
6 Board staff discovered that the facility conducts a  
7 transfer station floor sort for MRF processing. During  
8 the limited amount of time in which Board staff was at the  
9 facility, Board staff observed no diversion of Cerritos'  
10 waste.

11           In determining whether or not to impose penalties  
12 and in determining the amount of penalties, statute  
13 requires the Board to consider whether the city has made a  
14 good faith effort to implement its SRRE. Statute also  
15 requires the Board to consider factors including diversion  
16 rate, Board-approved time extension, and impacts and  
17 efforts related to C&D waste.

18           The Board's enforcement policy provides three  
19 ranges for potential penalties: Serious, moderate and  
20 minor.

21           The serious range goes from \$5,000 per day to  
22 \$10,000 per day, and it applies to jurisdictions that have  
23 failed to implement their SRREs or Household Hazardous  
24 Waste Elements without reason or justification.

25           The moderate range goes from \$1,000 per day to

1 \$5,000 per day, and it applies to jurisdictions that have  
2 failed to implement their SRREs or Household Hazardous  
3 Waste Elements due to mitigating circumstances that have  
4 no bearing on natural disasters, budgetary constraints,  
5 and to work stoppages.

6 The minor range goes from \$1 per day to \$1,000  
7 per day, and it applies to jurisdictions that have  
8 implemented some or all programs but have failed to meet  
9 the diversion requirements to some extent.

10 Based on the information presented in this item,  
11 Board staff recommends that the board consider the City of  
12 Cerritos' failure to implement its SRRE as a moderate  
13 violation. Board staff has selected the moderate  
14 violation level because the city failed to implement its  
15 SRRE due to circumstances including, but not limited to,  
16 delays in negotiations, circumstances that were not the  
17 result of natural disasters, budgetary constraints nor  
18 work stoppages.

19 Board staff recommends that the Board consider  
20 Option 1, a one-time penalty; Option 2, a daily penalty;  
21 and Option 5, an additional daily penalty imposed if the  
22 city fails to continue implementation through March 31st,  
23 2009. These options are outlined more fully in the agenda  
24 item.

25 This concludes staff's presentation. Staff and

1 representatives of the city are available to answer any  
2 questions.

3 Thank you.

4 CHAIRPERSON BROWN: Thank you, Michael.

5 Any questions of staff before we move to the  
6 city's presentation?

7 Okay. We'll move next to the city. And if you  
8 could start by for the record introducing yourselves and  
9 your position at the city.

10 MR. O'GRADY: Okay. Good afternoon, Madam Chair,  
11 members of the Board. My name is Mike O'Grady and I'm the  
12 Environmental Services Manager for the City of Cerritos.

13 I'm here this morning to present to you a summary  
14 of the City of Cerritos' progress in meeting the AB 939  
15 compliance order that was issued back in February.

16 The City of Cerritos -- and I'll give you some  
17 history on the City of Cerritos and its mixed waste  
18 processing.

19 And I'm sorry, Michael. I had a PowerPoint that  
20 we were...

21 (Thereupon an overhead presentation was  
22 Presented as follows.)

23 MR. O'GRADY: The City of Cerritos is an  
24 ethnically diverse community with a wide variety of spoken  
25 languages. With this in mind, shortly after AB 939 was

1 passed into law the city determined that mixed waste  
2 process was the most effective means of diverting  
3 residential waste.

4 --o0o--

5 MR. O'GRADY: This decision came as a result of  
6 the fact that a recycling program is only as good as the  
7 participation you get, and public education would present  
8 a unique challenge in such a multilingual community.  
9 Consequently, in 1995, the Cerritos City Council awarded  
10 CalMet Services a contract which included mixed waste  
11 processing of residential solid waste and a commitment to  
12 meet AB 939 requirements utilizing mixed waste processing.

13 In fact, in 2001 the city amended its contract  
14 with CalMet Services and included a requirement that all  
15 waste must be processed in a material recovery facility.  
16 This included residential, commercial, and roll-off waste  
17 including mixed C&D waste.

18 Now, to comply with the terms of the contract,  
19 CalMet services processed the city's waste at the Downey  
20 area recycling and transfer facility, which CalMet owned  
21 and operated as a mixed waste material recovery facility.

22 In 2002, CalMet sold the DART facility to the  
23 Sanitation Districts of Los Angeles County. Shortly  
24 thereafter the city's residential diversion fell, as DART  
25 transitioned its belt resources to source-separated



1 recycling.

2 --o0o--

3 MR. O'GRADY: Now, the City of Cerritos'  
4 diversion rate -- the City of Cerritos' diversion rate in  
5 2001 was marked at 56 percent. You can see by the  
6 diversion summary on the board now that the city's  
7 diversion fell during the years of 2001 through 2003,  
8 shortly after the DART facility transitioned to  
9 source-separated materials running up its belt. However,  
10 CalMet services and the City of Cerritos were able to  
11 improve the city's diversion rate during the period of  
12 2003 through 2005 by utilizing mixed waste processing and  
13 transformation.

14 The city estimates that in 2006 and in 2007 the  
15 diversion rate achieved would be 48 percent.

16 --o0o--

17 MR. O'GRADY: As you know, in February of 2007  
18 the city was issued a compliance order by the Waste  
19 Management Board. And that compliance order required the  
20 city to agree to a local assistance plan which outlined  
21 three programs the city was to implement: Enhanced  
22 residential recycling, C&D ordinance -- a C&D debris  
23 diversion ordinance, and improved commercial diversion.

24 --o0o--

25 MR. O'GRADY: Now, after receiving a compliance

1 order in February the city immediately contacted CalMet  
2 Services to conduct a residential waste characterization  
3 study to better understand the city's residential  
4 diversion potential. In March, CalMet submitted the  
5 residential waste characterization study results to the  
6 city, which concluded that 32.3 percent of the city's  
7 residential waste stream was comprised of green waste,  
8 with an additional 31.1 percent consisting of recyclables  
9 typically targeted in a curbside recycling program.

10 The city then requested that CalMet submit a  
11 proposal for a modified residential program. In April  
12 2007 CalMet submitted the requested proposal, which  
13 unfortunately did not include green waste recovery.  
14 Consequently, the city requested proposals on five  
15 specific residential recycling programs, each of which  
16 provided for both green waste recovery and recyclable  
17 recovery.

18 CalMet submitted the requested proposals to the  
19 city in June, and in July the Cerritos City Council  
20 selected the three-cart residential recycling program as  
21 its preferred residential recycling program and directed  
22 staff to negotiate a new contract with CalMet Services for  
23 the integrated solid waste management services in the City  
24 of Cerritos.

25 Following that, in September council called a new

1 public hearing because of the number of comments we  
2 received from residents of Cerritos who were not happy  
3 with the decision to go to a three-cart system. Council  
4 stood behind its decision though and determined that it  
5 was going to move forward with source-separated processing  
6 of residential waste.

7 --o0o--

8 MR. O'GRADY: Now, after extensive negotiations,  
9 on December 13th the city awarded a ten-year contract to  
10 CalMet Services for the integrated solid waste management  
11 services in the City of Cerritos. This contract commenced  
12 on January 1st of 2008 and includes a deadline of March  
13 31st for CalMet to fully implement the three-cart  
14 residential recycling program.

15 Now, CalMet estimates that the total cart rollout  
16 period will be six weeks. And CalMet has indicated that  
17 they will have placed their -- they have placed their  
18 order for carts, will be receiving them within the next  
19 two weeks, and are scheduled to roll out carts beginning  
20 February 18th, with the first cart pickup scheduled for  
21 February 25th.

22 Now, I want to point out that while Mr. Chen and  
23 Mr. O'Shaughnessy visited the City of Cerritos back on  
24 January 8th, I shared with them a draft copy of a timeline  
25 I received from CalMet. At that time, CalMet was

1 proposing that we go through a six-week rollout period of  
2 carts and we wouldn't commence any pickup on those carts  
3 until the end of March. Obviously the city objected to  
4 rolling out sets of recyclable carts and not allowing  
5 residents to use them for six weeks. So fortunately  
6 CalMet is cooperating with us, and the plan now is to roll  
7 out carts in each of six zones, one zone per week, and  
8 pickup will commence the week following the delivery of  
9 those carts.

10 So our pickup on the three-cart system will start  
11 as early as February 25th.

12 --o0o--

13 MR. O'GRADY: Now, the city has successfully  
14 negotiated a number of terms into its contract with CalMet  
15 Services. We've negotiated a curbside E-waste collection  
16 and U-waste drop-off program, which are all free of charge  
17 to Cerritos residents, as well as a bulky item pickup  
18 program, which we believe will greatly reduce illegal  
19 dumping.

20 CalMet Services is to provide additional  
21 recycling carts as well as additional green waste carts to  
22 Cerritos residents free of charge.

23 And also CalMet will operate non-diesel  
24 alternative fuel trucks, both on the commercial routes and  
25 the residential routes in the City of Cerritos.

1

2 MR. O'GRADY: Now, It's estimated that three-cart  
3 residential recycling program will divert 6,000 tons of  
4 green waste and 6,000 tons of recyclables annually in the  
5 city.

6 Furthermore, the city requires CalMet to send a  
7 minimum of 2500 tons annually for transformation. Now,  
8 this requirement was originally inserted into the contract  
9 to make up for lost diversion during our implementation  
10 period, which we early on realized would fall into 2008.  
11 However, the city decided to maintain this as an annual  
12 requirement.

13 Now, the city's new contract with CalMet also  
14 includes minimum commercial bin and roll-off diversion,  
15 which I will outline in the commercial section of my  
16 presentation. But you can see on the screen that  
17 commercial bin diversion is estimated at just under 4700  
18 tons annually, with the commercial roll-off diversion  
19 estimated at just under 4900 tons annually.

20 --o0o--

21 MR. O'GRADY: Now in total, the diversion  
22 requirements outlined in the new contract will account for  
23 over 24,000 tons of annual diversion achieved from  
24 CalMet's services. The diversion will increase the city's  
25 annual diversion rate to 57 percent.

1                               --o0o--

2               MR. O'GRADY:  And the local assistance plan also  
3 requires the city to implement a C&D debris diversion  
4 ordinance.  In developing this ordinance, the city  
5 identified the threshold for covered projects at 900  
6 square feet; this because at 900 square feet projects are  
7 required to go to our planning commission for approval.

8               Covered projects are required to divert a minimum  
9 of 50 percent and pay a 50 cent per square foot  
10 performance security deposit.  This deposit will be  
11 returned on a prorated basis following the project  
12 completion.

13              For example, if a project generates a thousand  
14 tons of debris, 500 tons of diversion is the goal; if they  
15 only achieve 400 tons, the city's stance is you've  
16 achieved 80 percent compliance, therefore, you get 80  
17 percent of your deposit back.  So we've put teeth into our  
18 ordinance which we believe will help us achieve success.

19              Now, similar to C&D ordinances of other cities,  
20 applicants are required -- applicants contracting with the  
21 city's waste hauler are exempt from the C&D ordinance.  
22 And in the city's agreement with CalMet Services, CalMet  
23 is required to process 100 percent of C&D waste and  
24 achieve a minimum of 50 percent diversion.  This ordinance  
25 passed its first reading at the Cerritos City Council

1 meeting of October 25th and its second reading on November  
2 8th. And, consequently, the ordinance became legally  
3 enforceable on December 8th -- I'm sorry -- December 10th.  
4 December 8th was a Saturday, as I recall. The ordinance  
5 was fully implemented on January 1st.

6 Now, Mr. O'Shaughnessy when he visited the City  
7 of Cerritos on January 8th represented himself as a  
8 developer and approached our building counter, and  
9 unfortunately was not given information on the C&D  
10 ordinance. What we've done since his visit is we've  
11 included verbiage on our C&D diversion ordinance on every  
12 application and every informational packet rather than  
13 just our C&D information packet, our facts at a glance, if  
14 you will. This way we avoid the embarrassing situation of  
15 somebody walking away from the counter and not being  
16 informed about the C&D ordinance.

17 Furthermore, we've got a check box, if you will,  
18 on our C&D diversion -- I'm sorry -- on our permit  
19 application program. It's a database. It's a form that  
20 our planners fill out when they're issuing permits. And  
21 any project of more than 900 square feet automatically  
22 defaults to a check box where they need to manually insert  
23 whether or not the applicant is required to meet the  
24 requirements of our C&D ordinance.

25 --o0o--

1           MR. O'GRADY: The local assistance plan also  
2 required the city to improve the effectiveness of its  
3 commercial diversion. To address this, the city outlined  
4 specific commercial diversion requirements in its contract  
5 with CalMet. We talked earlier about the city's 2001  
6 contract amendment requiring CalMet to send all waste to a  
7 material recovery facility. The downfall there is it  
8 didn't require that any of that material be belt sorted  
9 versus floor sorted or minimum recovery numbers be  
10 achieved. And so what we did was we outlined very  
11 specific targets in our contract with CalMet. Those  
12 targets are on the Board now.

13           Sixty-five percent of commercial bin waste must  
14 be processed at a material recovery facility, with a  
15 minimum of 30 percent recovery on that material.

16           Furthermore, 65 percent of roll-off waste must be  
17 processed, with a minimum of 50 percent diversion.

18           And as I mentioned earlier, 100 percent of C&D  
19 waste must be processed, with a minimum of 50 percent  
20 diversion.

21           BOARD MEMBER CHESBRO: Can I ask a quick  
22 question, Madam Chair?

23           So the city has an exclusive commercial  
24 franchise?

25           MR. O'GRADY: Absolutely. I'm sorry. I should



1 have mentioned that.

2 BOARD MEMBER CHESBRO: Okay. Thank you.

3 MR. O'GRADY: We do have an exclusive franchise  
4 agreement with CalMet Services, both prior to the issue of  
5 the new contract as well as currently.

6 Now, between the results of the residential waste  
7 characterization studies and CalMet's subsequent proposal  
8 to the city, which noted the 6,000 tons of residential  
9 recyclables and the 6,000 tons of green waste, as well as  
10 these very specific numbers, we were able to insert these  
11 numbers into a spreadsheet as we negotiated with CalMet.  
12 And we're able to state with a great deal of confidence  
13 that the city's annual diversion rate will reach 57  
14 percent annually.

15 Now, on January 16th I visited the DART facility  
16 for the time since these requirements became effective in  
17 our contract. CalMet currently uses the DART facility to  
18 process all of the city's waste. And while I observed  
19 some room for improvement of the waste being delivered to  
20 the facility -- the DART facility, overall I was impressed  
21 with their sorting during the morning hours. Now, the  
22 room for improvement that I saw, and I believe Mr.  
23 O'Shaughnessy and Mr. Chen saw as well, was that when we  
24 went in the afternoon there was little activity on the  
25 floor -- sorting floor. And essentially what's happened

1 is DART schedules their sorters in the morning, and during  
2 the afternoon hours half of them go over to the green  
3 waste area while the other half stay on the floor. And at  
4 2:30 they're all off for the day.

5 We're going to address this directly with CalMet  
6 Services and request that they either take all of their  
7 waste to the facility in the morning or see that DART  
8 follows through on what they've committed to us as being a  
9 second shift of sorters who will work the afternoon shift.

10 BOARD MEMBER CHESBRO: Madam Chair?

11 So the material sits on the floor until the next  
12 day or it's moved out for disposal -- transferred for  
13 disposal?

14 MR. O'GRADY: What I observed is -- segregated  
15 recyclables are pushed to a pile to be process on the belt  
16 the next day. However, loads of mixed waste coming in  
17 that would otherwise be floor sorted are being pushed  
18 because there's not an availability of floor sorters  
19 during those hours. And so I observed specifically one  
20 Cerritos load that looked to me as though it had a good  
21 potential for being floor sorted. Unfortunately the floor  
22 sorters weren't available.

23 CHAIRPERSON BROWN: So why didn't you address  
24 these issues before? I mean with all due respect, you've  
25 already signed your contract and the LAP is supposed to be

1 implemented and you're now finding additional issues.

2 MR. O'GRADY: We didn't have the teeth in our  
3 contract was our biggest concern before. Our contract  
4 previously required CalMet to deliver all of their waste  
5 to a material recovery facility, which it was. And so now  
6 with these very specific requirements, we now can ensure  
7 that the processing of the material is going to take  
8 place.

9 Furthermore, I'm not sure that it's a CalMet  
10 issue. They're delivering that material to the facility  
11 and it's not being processed like what they're paying for.

12 CHAIRPERSON BROWN: And then it's a facility  
13 issue.

14 But I think we're going to have a lot of  
15 questions for you. So why don't you finish your  
16 presentation. We won't address anything other than  
17 specific to slide issues. And let the staff go and you go  
18 and then we'll go.

19 MR. O'GRADY: Okay. And as I indicated, the  
20 management over at the DART facility has indicated that  
21 they are in the process of implementing a second shift of  
22 floor sorters. That in my eyes would solve the issue.

23 --oOo--

24 MR. O'GRADY: The City of Cerritos has a history  
25 of incorporating environmental benefits into its projects.

1 Over the past several years we've installed two walking  
2 tracks and resurfaced two playgrounds, all using recycled  
3 California waste tires.

4 Furthermore, we've resurfaced all 70 lane miles  
5 of arterial streets in the city utilizing rubberized  
6 asphalt paving.

7 Furthermore, the city runs annual recycling  
8 programs out at its elementary schools. In fact, I  
9 believe our fifth annual Elementary School Recycling  
10 Program competition is starting up within the next couple  
11 weeks here. And the city does have a recycled purchasing  
12 policy.

13 --o0o--

14 MR. O'GRADY: This coming spring the City of  
15 Cerritos anticipates being named a Tree City U.S.A. for  
16 the tenth consecutive year. The city maintains over  
17 30,000 trees, all of which the green waste is recovered.

18 The city has installed two drought tolerant  
19 demonstration gardens within the city. And during a  
20 recent parking lot expansion the city transplanted 19  
21 mature Canary Island pine trees into center medians which  
22 were in excess of 30-feet tall per tree.

23 The city of Cerritos is in the process of  
24 commissioning an environmental document outlining the  
25 environmental benefits that trees have on the community

1 and the advantages of moving towards sustainable  
2 landscape. It's the city's intent to present this report  
3 to the state once completed.

4 --o0o--

5 MR. O'GRADY: The city of Cerritos was one of the  
6 first cities in the nation to utilize recycled water.  
7 Last year the city saved over 713 million gallons of water  
8 by using recycled water for irrigation. This represents  
9 18 percent of citywide consumption.

10 The city also maintains a budget offering  
11 financial assistance to entities interested in connecting  
12 to its recycled water system.

13 --o0o--

14 MR. O'GRADY: Finally, the City of Cerritos  
15 opened the state's first solar-assisted city hall. The  
16 system utilizes solar-assisted comfort heating as well as  
17 heated domestic water.

18 The city's swim center utilizes solar-assisted  
19 heating in the pool as well as in its domestic water.

20 And the city is in the process of building a CNG  
21 fueling station so that it can expand its CNG fleet.

22 Finally, the city has included plans to utilize  
23 photovoltaic electrical generation systems at Liberty Park  
24 Community Center as well as a proposed 247-unit senior  
25 housing complex.

1 --o0o--

2 MR. O'GRADY: Now, the City of Cerritos has a  
3 history of being an environmentally conscious city and has  
4 been on the forefront of municipal environmental  
5 stewardship.

6           While mixed waste processing has not been  
7   successful in achieving 50 percent solid waste diversion  
8   in the City of Cerritos, the city has worked diligently in  
9   negotiating diversion terms into a ten-year solid waste  
10   management contract that will be effective in meeting the  
11   50 percent diversion requirement.

12               While it is certainly possible that the city  
13 could have accelerated the negotiation process and  
14 possibly met the December 31st compliance order deadline,  
15 we are certain that we would not have secured terms that  
16 are as effective as the ones that we have secured in the  
17 current ten-year contract.

18                   Consequently, the City of Cerritos respectfully  
19 requests that you consider its past environmental record  
20 as well as the fact that we've made a commitment to change  
21 our strategy in achieving 50 percent diversion  
22 requirement. Consequently, we're requesting that you  
23 today approve Option 3 and allow the city till March 31st  
24 to fully implement its residential recycling program with  
25 no penalties.

1           Now, I've got -- Mr. Joe Sloan from CalMet  
2 Services is available as well as myself to answer any  
3 questions you may have.

4           VICE CHAIRPERSON DANZINGER: Okay. Well, I  
5 think -- do we want to before any Board member questions  
6 maybe go back to staff and let's hear any of their  
7 response.

8           BOARD MEMBER MULÉ: I was just wondering if I can  
9 get a couple questions in --

10          VICE CHAIRPERSON DANZINGER: Absolutely. Go  
11 ahead

12          BOARD MEMBER MULÉ: -- before I have to leave.

13          Thank you, staff, and thank you, Mr. O'Grady and  
14 Mr. Sloan, for being here.

15          Just very quickly. You currently -- even with  
16 the new contract you don't have a separate commercial  
17 recycling program; is that correct?

18          MR. O'GRADY: Our commercial waste is handled as  
19 mixed waste.

20          BOARD MEMBER MULÉ: But you don't have a  
21 commercial recycling program for commercial entities to  
22 participate in? The way that you handle the material is  
23 you just collect it as solid waste and then you sort it;  
24 is that correct?

25          MR. O'GRADY: That's correct. There is a

1 voluntary program where commercial entities can have a  
2 mixed wasted -- or, I'm sorry -- a source-separated bin.

3 BOARD MEMBER MULÉ: Okay. And what percentage of  
4 businesses participate in that voluntary program, do you  
5 have any idea?

6 MR. SLOAN: I don't know precisely.

7 BOARD MEMBER MULÉ: Your microphone, please.

8 MR. SLOAN: Oh, excuse me.

9 Yeah, I don't know the precise number, Ms. Mulé.  
10 I know that we have a route that runs every day in the  
11 City of Cerritos collecting source-separated commercial  
12 recyclables. But I don't know the percentage.

13 BOARD MEMBER MULÉ: Okay. And then you're just  
14 getting in place the residential three-cart program?

15 MR. SLOAN: The carts are being produced right  
16 now and will be distributed on the 18th.

17 BOARD MEMBER MULÉ: Right, right, right. I heard  
18 all that, right.

19 Well, I guess my concern with all of this is that  
20 we all knew back in 1991 what our goals were, and all of  
21 us familiar with the implementation of AB 939 know that it  
22 wasn't just looking at that number of 50 percent, but it  
23 was the implementation of programs that would help us --  
24 keep all of us -- get us and keep all of us in compliance.

25 And clearly what I see here is a lack of program



1 implementation. And I know that you're moving forward on  
2 it. But I just feel that the timing on this is a  
3 little -- too little too late, frankly.

4 Again, you've been working with our staff for a  
5 number of years on implementing these programs via your  
6 1066 time extension and a compliance order, and we're  
7 still not there yet. So I'm just letting you know that I  
8 just have some grave concerns about your good faith  
9 efforts on this issue.

10 Thank you, Madam Chair and Mr. Vice Chair.

11 CHAIRPERSON BROWN: Okay. I think we go back to  
12 staff for a rebuttal time period. And then we'll allow  
13 the city an additional time period.

14 Are we going to you, Mr. O'Shaughnessy.

15 MR. CHEN: No.

16 CHAIRPERSON BROWN: Or Michael?

17 Michael. There you go.

18 MR. CHEN: This is Michael Chen.

19 Staff has no rebuttal to the city's presentation  
20 at this time.

21 CHAIRPERSON BROWN: Thank you.

22 Mike, do you have any additional comments before  
23 the Board starts asking questions of all of you?

24 MR. O'GRADY: Yeah, if I could just address Ms.  
25 Mulé's comments.

1           The City of Cerritos felt that mixed waste  
2   processing was a program, and we achieved some success  
3   with that. Unfortunately as more and more cities have  
4   moved to source separation, the facilities no longer are  
5   going to process source-separated materials -- I'm  
6   sorry -- mixed waste materials when they've got a full  
7   load of source-separated materials. And so we -- of  
8   course we're one of the last cities to move into that  
9   source-separated program. There still are a handful out  
10  there. But unfortunately the facilities just aren't as  
11  available as they once were to process that material.

12           CHAIRPERSON BROWN: And let me ask you. Your  
13  justification for doing the mixed is because you have a  
14  multilingual community and the education would be  
15  difficult?

16           MR. O'GRADY: Well, we don't believe that's the  
17  case now. There are many cities that have proven that you  
18  can implement a three-cart system in a multilingual  
19  community.

20           CHAIRPERSON BROWN: Okay.

21           MR. O'GRADY: But back in '95 when we initially  
22  adopted the MRF -- dirty MRF program, the thought at the  
23  time was the three-cart system really hadn't been proven  
24  in these such communities, and we felt as though that it  
25  would be difficult to communicate -- to get word out and

1 achieve a high percentage of participation.

2 CHAIRPERSON BROWN: So you're going back to 1995  
3 with that decision. And at no point between then and when  
4 the 1066 time extension and your numbers started falling,  
5 you didn't go back to that decision back then.

6 MR. O'GRADY: We were confident that we could  
7 make mixed waste processing work.

8 CHAIRPERSON BROWN: Even as your numbers went  
9 from 56 down to 43 --

10 MR. O'GRADY: -- and then --

11 CHAIRPERSON BROWN: -- and then 45 --

12 MR. O'GRADY: -- and then up to 48. But, you  
13 know, again, we felt we could make it work. And we've now  
14 committed ourselves to source separation.

15 CHAIRPERSON BROWN: Finally. I mean I have to  
16 agree with Member Mulé. You know, the fact that 939 was  
17 passed in 1989 and everybody throughout the state had to  
18 comply with these numbers, and we're now in 2008 and you  
19 are still struggling with your hauler to implement a  
20 three-cart system is absolutely unbelievable. Absolutely  
21 unbelievable.

22 I don't have any words or questions. I'll move  
23 and we'll start going down the dais right here, because  
24 I'm sure we have lots of questions.

25 Member Peace.

1           BOARD MEMBER PEACE: Does the City of Cerritos  
2 figure its own diversion rate for its report to the Board  
3 or does it contract that out?

4           MR. O'GRADY: No, we complete that report  
5 in-house.

6           BOARD MEMBER PEACE: So you don't contract that  
7 out to anybody else?

8           MR. O'GRADY: No.

9           BOARD MEMBER PEACE: Well, I guess -- when you  
10 say 55 percent of the waste stream is commercial and you  
11 had no commercial recycling requirement, I'm finding it  
12 very hard to believe that you even got to the 43 percent  
13 or the 45 percent. It just doesn't add up.

14          MR. O'GRADY: And let me correct myself. I think  
15 about three years ago we did contract to have that report  
16 completed.

17          Mixed waste processing in our experience tends to  
18 be more successful on the commercial side than what we've  
19 experienced on the residential side.

20          BOARD MEMBER PEACE: Today you're before the  
21 Board asking, you know, more time to implement your  
22 programs to get 50 percent diversion, asking that we, you  
23 know, don't impose penalties. But I'm just wondering what  
24 you would say and how would you present your case for  
25 leniency if you were in front of a board of your peers,

1 fellow jurisdictions who have already implemented their  
2 programs, who made the tough decisions at their city  
3 council to have to raise rates to implement their  
4 programs, who have gotten to 50 percent, those  
5 jurisdictions that the Board has already fined in past  
6 years for not implementing their programs? How would you  
7 present your case? Like what challenges did your  
8 jurisdiction have that others didn't?

9 MR. O'GRADY: Again, we had made a commitment to  
10 mixed waste processing and that didn't work. All we can  
11 do at this point -- and, granted, I understand that there  
12 are some feelings that we were late in making the  
13 transition. But all we can do at this point is move  
14 forward and commit ourselves to source separation. And  
15 that's what we're doing.

16 BOARD MEMBER CHESBRO: Madam Chair?

17 CHAIRPERSON BROWN: Member Chesbro.

18 BOARD MEMBER CHESBRO: I have a couple questions  
19 for staff. Let me put it in context first, that I  
20 understand the criteria we're using in the law is good  
21 faith effort in implementing the Source Reduction and  
22 Recycling Element. But the questions I have are sort of  
23 set context and comparability in terms of the Board's  
24 history, only some of which I'm familiar with.

25 So the first one is: How has the Board handled

1 comparable communities who have failed by similar amounts  
2 to achieve the 50 percent and in some similar ways failed  
3 to implement programs and therefore come up to the  
4 enforcement stage?

5 COMPLIANCE, EVALUATION & ENFORCEMENT DIVISION

6 CHIEF VAN KEKERIX: Lorraine Van Kekerix with the  
7 Compliance, Evaluation & Enforcement Division.

8 This is the first time that the Board is hearing  
9 a jurisdiction that is of a high diversion rate that has  
10 not been supported by the program implementation. We have  
11 several other jurisdictions which are currently on  
12 compliance orders who found themselves in that situation.  
13 The other situations where we have had penalty hearings in  
14 the past, the jurisdictions have had low diversion rates  
15 and limited implementation of diversion programs.

16 BOARD MEMBER CHESBRO: So you're saying there  
17 really isn't a precedent for this specific situation?

18 COMPLIANCE, EVALUATION & ENFORCEMENT DIVISION

19 CHIEF VAN KEKERIX: That's correct.

20 BOARD MEMBER CHESBRO: In my limited time back on  
21 the Board what comes to mind is -- and I'm not trying to  
22 excuse the city or disagree with what's been said -- but I  
23 remember we had Daly City before us with -- I don't  
24 remember exactly, but it was in the low 30s I think. And  
25 in terms of context and trying to decide how serious this

1 is, the relative level of missing the mark is relevant, I  
2 think, you know. And I don't know exactly how. And  
3 that's why I was trying to figure out what the history has  
4 been in terms of how we have approached these kinds of  
5 situations. But I hear you saying that this is a horse of  
6 a different color or a different type of failure to  
7 comply.

8 COMPLIANCE, EVALUATION & ENFORCEMENT DIVISION

9 CHIEF VAN KEKERIX: Correct. The law requires that  
10 jurisdictions have plans and implement those plans to  
11 achieve the diversion rates. And most often in the past  
12 we have found that there have been low diversion rates and  
13 limited implementation of programs. Within the last  
14 several years there have been a number of jurisdictions  
15 put on compliance who had limited program implementation,  
16 but their diversion rate wasn't supported by the  
17 implementation of those compliance programs.

18 BOARD MEMBER CHESBRO: So you --

19 COMPLIANCE, EVALUATION & ENFORCEMENT DIVISION

20 CHIEF VAN KEKERIX: There are several more who are on  
21 compliance orders currently that are in that situation  
22 than there have been in the past.

23 BOARD MEMBER CHESBRO: Okay. So this, in  
24 essence, for this type of failure to comply is  
25 precedent-setting what we're doing today then in terms of

1 setting the tone.

2 Well, my second question is -- you just referred  
3 to -- and I know this is relatively speaking, obviously.  
4 They're not in compliance to 50 percent or they haven't  
5 consistently achieved the 50 percent. But you referred to  
6 their diversion rate as high. And I assume that you mean  
7 amongst those who have not achieved 50 percent.

8 How does -- can you give a brief synopsis of  
9 where we stand in terms of how many jurisdictions haven't  
10 achieved 50 percent and where Cerritos falls relatively  
11 speaking compared to others that are not at 50 percent?

12 COMPLIANCE, EVALUATION & ENFORCEMENT DIVISION  
13 CHIEF VAN KEKERIX: I don't have that information with me.  
14 I didn't get that off of our website in terms of how many  
15 jurisdictions are at what percent. I could get that for  
16 you, but I don't currently have that.

17 BOARD MEMBER CHESBRO: Well, again, I'm just  
18 trying to create context.

19 Is there any generalization that you can give  
20 without admittedly being a specific -- you know, a  
21 detailed --

22 VICE CHAIRPERSON DANZINGER: Yeah, why am I  
23 thinking two-thirds/one-third. I thought it was like  
24 two-thirds roughly of the jurisdictions in the state, if  
25 you include good faith, are there. Or is it higher than



1 that? I thought it was around 70 percent or something of  
2 the state is either at 50 or in compliance under good  
3 faith, and it's a little less than a third I think hasn't  
4 gotten there.

5 COMPLIANCE, EVALUATION & ENFORCEMENT DIVISION

6 CHIEF VAN KEKERIX: I know that we were at that level in  
7 the recent past. But I don't know whether that still is  
8 the case now. One thing that we do have are there are a  
9 number of jurisdictions who were on time extensions that  
10 lasted until the end of 2005. And so the Board will be  
11 taking a look at those jurisdictions as they come forward  
12 for the 2005-2006 biennial review.

13 BOARD MEMBER MULÉ: So, Lorraine, this is one of  
14 those jurisdictions that went through the process, so to  
15 speak; it was on a time extension, and then it didn't meet  
16 the terms of the time extension -- the 1066 time  
17 extension, so then it went to a compliance order and now  
18 we're here today; is that correct?

19 COMPLIANCE, EVALUATION & ENFORCEMENT DIVISION

20 CHIEF VAN KEKERIX: Correct.

21 BOARD MEMBER MULÉ: So that's I think one of the  
22 things that makes this situation different from past  
23 situations, is that they've had -- we're at a point in  
24 time now that they've had all the passes, so to speak, and  
25 all the opportunities to implement their programs as well

1 as meet the 50 percent diversion goal. So I think that's  
2 what makes this situation a little bit different from past  
3 situations.

4 CHAIRPERSON BROWN: Do you have any other  
5 follow-up?

6 BOARD MEMBER CHESBRO: Well, I guess my  
7 perspective on it is I share the frustration that I hear  
8 expressed by other Board members relative to -- it is how  
9 many years later now since 939 passed? So there's  
10 certainly been plenty of time and there's also been I  
11 think a reasonable -- I wasn't on the Board last February  
12 when this enforcement agreement was reached. But it  
13 certainly seems like a reasonable amount of time was  
14 allowed on the one hand.

15 On the other hand, in terms of the severity of  
16 how far we go -- and maybe I'm jumping ahead of the  
17 discussion here -- I'll just generally say that it is  
18 somewhat mitigated in my mind by the fact that they are --  
19 they do appear to be in the high 40s percentage-wise and  
20 clearly steps are being taken, it is in process. So I  
21 don't see it quite as the throw the book at them, this is  
22 the worst case example around.

23 I, frankly, was much more frustrated with Daly  
24 City being in here saying because they had a multilingual  
25 community they could only achieve 37 percent.

1 But, similarly, they've had -- Cerritos has had  
2 plenty of time, just like Daly City, to figure out the  
3 programs aren't working and put programs in place that  
4 will work. So I just think that there's factors on both  
5 sides and we have to try to sort those out in deciding  
6 what the appropriate response is.

7 BOARD MEMBER PETERSEN: Madam Chair?

8 CHAIRPERSON BROWN: Thank you.

9 Gary.

10 BOARD MEMBER PETERSEN: A clarification. Now, I  
11 want to make sure I understand this. You're going to be  
12 tipping on the floor with your materials and basically  
13 sorting off the floor to attain the recycling rates; is  
14 that correct?

15 MR. O'GRADY: With some of our commercial waste,  
16 yes. Now, we are encouraging CalMet to route their trucks  
17 in such a way to where we can achieve extremely rich  
18 commercial loads that can be belt sorted. And the  
19 indication we're getting from the DART facility is as they  
20 increase their staffing and extend their shifts, they'll  
21 be able to send more debris through the belt and therefore  
22 start to address some of the dirty MRF loads, if you  
23 will -- commercial loads. Whereas, right now they've only  
24 got sorters scheduled with enough time to handle the  
25 residential source-separated --

1 BOARD MEMBER PETERSEN: Next question. And this  
2 residential, where is that going to go?

3 MR. O'GRADY: The residential's going to be three  
4 carts. When --

5 BOARD MEMBER PETERSEN: Well, where is it going  
6 to be processed?

7 MR. O'GRADY: When trucks arrive to the DART  
8 facility, they go one of three places.

9 Sorted materials -- source-separated materials go  
10 to one pile that are designated to go up the belt. You  
11 achieve a very high percentage of diversion with that  
12 load.

13 You get -- other loads are dumped on the floor.  
14 And through a visual observation, it's determined whether  
15 that load is recyclable rich or not.

16 BOARD MEMBER PETERSEN: Okay. I'm confused.

17 MR. O'GRADY: I'm sorry.

18 BOARD MEMBER PETERSEN: You're going to have  
19 three carts, right, green waste, recyclables, and trash?

20 MR. O'GRADY: You're just looking at the  
21 residential?

22 BOARD MEMBER PETERSEN: I'm talking about  
23 residential.

24 MR. O'GRADY: Okay. I'm sorry.

25 The recyclable materials are going up the belt.

1 The green waste is going to Puente Hills landfill to be  
2 used as alternative daily cover. And the waste -- the  
3 waste barrel will be pushed and sent to the landfill, with  
4 the exception of 2500 tons per year, which will be sent to  
5 transformation.

6 CHAIRPERSON BROWN: All of the green waste is  
7 going to Puente Hills for ADC?

8 MR. SLOAN: Some of the green waste will be going  
9 to Tierra Verde Industries for composting.

10 CHAIRPERSON BROWN: About what percentage?

11 MR. SLOAN: I'm not certain of the percentage.

12 CHAIRPERSON BROWN: Sorry, Gary.

13 BOARD MEMBER PETERSEN: No, that's okay.

14 MR. SLOAN: May I ask for a clarification.

15 BOARD MEMBER PETERSEN: I'm having a whole lot of  
16 problem with all of this.

17 Yeah, Joe.

18 MR. SLOAN: Joe Sloan representing CalMet  
19 Services and here in support of the City of Cerritos. And  
20 thank you, Madam Chairperson and Board members, for  
21 letting me have the opportunity to speak.

22 If I could digress for just a moment regarding  
23 the adaptation 15 years ago of the approach of just  
24 processing mixed solid waste.

25 And as all of you, I'm sure, are aware and you've

1 probably visited the facilities in southern California,  
2 there are a number of communities, dozens of communities  
3 that have relied on that as either the sole or as a  
4 primary means of achieving their diversion. All the  
5 cities serviced by Athens Disposal up in the valley,  
6 Rainbow down in Huntington Beach, Taormina Industries in  
7 City of Anaheim, and others -- I'm trying -- oh, and CR&R  
8 Disposal, all of those operate dirty MRFs. And that's the  
9 primary means of achieving the waste diversion that's been  
10 required in those contract cities that they service. Now,  
11 albeit there are other means that they also have deployed.

12           And just to put it in context, at the time that  
13 the city embraced this approach to waste reduction, the  
14 facility was owned by their current contractor. That  
15 facility, the DART facility was owned by CalSan Services,  
16 which is really the forerunner to the current contractor,  
17 CalMet.

18           CalSan owned and operated the DART facility, and  
19 they set in place the operating parameters and they made  
20 the determination as what would be processed, when and  
21 where and by what method. And that's when you saw the  
22 percentages that were up in excess of 50 percent, in the  
23 55, 56 percent range.

24           BOARD MEMBER PETERSEN: And, Joe, when was -- who  
25 owned that at the time?

1           MR. SLOAN: That was -- Maurey Adnoff was the  
2 owner of CalSan. And he was the contractor for the City  
3 of Cerritos.

4           BOARD MEMBER PETERSEN: Right.

5           MR. SLOAN: Then some five or six years later the  
6 hauling contracts were sold to a successor company, a  
7 combination of two companies. But it was -- it became  
8 CalMet Services.

9           BOARD MEMBER PETERSEN: And who were those  
10 companies?

11          MR. SLOAN: Well, it was -- the CalMet contracts  
12 and a company that was Metropolitan Waste Services.

13          And so those companies essentially inherited that  
14 agreement. But they did not own the facility. They  
15 didn't own the facility. Mr. Adnoff sold the facility  
16 separately to the Los Angeles County Sanitation District.  
17 And this is not to roll the San District. They do a great  
18 job of what they do. But they have a different approach  
19 and they have different goals and aspirations for that  
20 facility.

21          So the materials that were -- that began to be  
22 delivered to that facility after that acquisition and  
23 after San District took over the operation, the recovery  
24 rates declined. And I don't think that the overall  
25 recovery rates at the facility declined, but those that

1 could be attributable to Cerritos waste did.

2 So that's -- that wasn't a decision that was made  
3 by the city or the hauler.

4 BOARD MEMBER PETERSEN: Okay. I have another  
5 couple questions.

6 What happens to the materials under 900 square  
7 feet in your C&D program?

8 MR. O'GRADY: Those that are hauled by CalMet  
9 Services, 50 percent diversion would be achieved, because  
10 CalMet is required to divert --

11 BOARD MEMBER PETERSEN: Under 900 square feet?

12 MR. O'GRADY: Right.

13 And like other ordinances -- C&D ordinances  
14 across the state, anything under typically a thousand  
15 square feet are not targeted projects and therefore the  
16 city simply encourages that the city -- that the  
17 contractor divert.

18 BOARD MEMBER PETERSEN: You also have the 65  
19 percent recovery of commercial and roll-off loads. Why is  
20 that number targeted?

21 MR. O'GRADY: During the negotiations with CalMet  
22 Services they needed an allowance for wet waste, wet  
23 routes, if you will. Routes --

24 BOARD MEMBER PETERSEN: But you're going to  
25 definitely start scheduling routes for dry route pick up



1 and the commercial, correct?

2 MR. SLOAN: That's already underway.

3 BOARD MEMBER PETERSEN: So that would be higher  
4 than a 65 percent recovery rate, right?

5 MR. SLOAN: It's not a 65 percent recovery rate.  
6 What we're saying is --

7 BOARD MEMBER PETERSEN: I mean the loads. I'm  
8 sorry.

9 MR. SLOAN: -- we're not -- we're going to  
10 process 65 percent of the material that's generated in the  
11 commercial sector. So that will -- that material will be  
12 of course a higher recovery rate because hopefully it's  
13 going to be more consistently dry material that's got a  
14 lot more recyclables in it.

15 MR. O'GRADY: And if I may. In addition to the  
16 65 percent requirement, there is a minimum diversion of  
17 that 65 percent that needs to be achieved. In other  
18 words, for every hundred tons, 65 are delivered to the  
19 material recovery facility; 30 percent of that 65 has to  
20 be diverted.

21 BOARD MEMBER PETERSEN: Thank you.

22 CHAIRPERSON BROWN: That's a pretty low  
23 percentage, Mike. If you're saying you're only taking --  
24 or requiring them to process 65 percent and of 65 percent  
25 they're only getting -- or required to get 30 percent

1 diversion, that's a much lower number than it appears,  
2 because you're not getting 30 percent diversion from  
3 commercial recycling, which is a pretty low number.  
4 You're setting your bar so low. And I think that's some  
5 of our frustration, is you keep setting your bar a little  
6 low compared to other jurisdictions around the state that  
7 are -- jump on higher bars.

8 MR. O'GRADY: I understand. And our challenge  
9 was we were up against the deadline of finishing  
10 negotiations. Initially when negotiations set out, our  
11 bar was much higher. But we needed --

12 CHAIRPERSON BROWN: But why are you setting a bar  
13 at all for diversion?

14 MR. O'GRADY: I'm sorry?

15 CHAIRPERSON BROWN: Why a cap?

16 MR. O'GRADY: A minimum of. There is no cap.  
17 It's a minimum of -- a minimum of 35 percent diversion. A  
18 minimum of 65 percent processed with a minimum of 30  
19 percent diversion. So we haven't set a cap. We've set a  
20 minimum -- a minimum diversion that CalMet needs to  
21 achieve. And that minimum --

22 VICE CHAIRPERSON DANZINGER: Yeah, I agree with  
23 your concern. It's a floor, it's not a ceiling. But it's  
24 still the expectation. I mean it's still here's the  
25 expectation; 65 percent is great.

1 CHAIRPERSON BROWN: Gary, did you have --

2 BOARD MEMBER PETERSEN: One more -- I'm just --  
3 for being 17 years in the process and we're here now, I'm  
4 a little disappointed being that I understand this and  
5 have dealt with this for 35 years and developed programs.  
6 I mean this is slow in coming, and it's a sad state of  
7 affairs. That's all I want to say to you. But I hope you  
8 guys get your act together and get going.

9 CHAIRPERSON BROWN: Jeff, you had some comments?

10 VICE CHAIRPERSON DANZINGER: Yeah. I don't want  
11 to add too much to what's been said. I agree -- torn on a  
12 couple things too, the same thing about, you know, how  
13 much emphasis on the number, which is pretty solid, but  
14 the process is about program implementation. And I  
15 mean -- I guess the good news would be this unbelievable  
16 untapped potential that you have in your jurisdiction. I  
17 mean you're presumably at 48 percent and you've got a  
18 whole ton of stuff that hasn't been implemented yet.

19 Maybe no reason why this can't be a 65 percent  
20 jurisdiction. You've got a fairly affluent community.

21 But I -- yeah, I mean I'm trying to understand  
22 the singular -- or as you try to identify it, the singular  
23 issues that you're trying to deal with. But it's hard not  
24 to look at these in a context of all the jurisdictions  
25 that have got there, including jurisdictions that probably

1 didn't have all the tools and the resources to begin with.

2 So it's just -- it's very disconcerting.

3           And a lot of progress in the last couple months,  
4 which again you have to wonder what's -- we've been  
5 quoting Reagan lately. And I remember his other one about  
6 feeling the heat or seeing the light. And let me -- can I  
7 just ask one quick question of staff, because I just want  
8 clarify in my mind.

9           Can you summarize -- in the item before the  
10 recommendation was Option 4 and today it's what 1, 2, and  
11 5. Can you just summarize, because I think that will  
12 clarify in my mind, you know, where your head's at on  
13 this, you know, the reasons behind, you know, the staff  
14 recommendation now being 1, 2, and 5. I'm assuming that's  
15 purely from the results of the January 8th inspection.  
16 But I just want to hear a summary of the reasons behind  
17 that.

18           JURISDICTION COMPLIANCE & AUDIT SUPERVISOR

19 O'SHAUGHNESSY: Trevor O'Shaughnessey, JCA.

20           Mr. Danzinger, you're right on. Based on our  
21 site visit and the findings that we had at that time,  
22 evaluating the C&D ordinance, looking at the residential  
23 program at the time the proposed implementation plan,  
24 which was full implementation -- or beginning  
25 implementation of the residential pickup of actual

1 recyclables on March 31st, and then the commercial program  
2 and the lack of progress in the implementation of that  
3 program. So it was all together focusing on the  
4 implementation of the LAP, the three programs, and what  
5 was observed and the information that was obtained at that  
6 time.

7 VICE CHAIRPERSON DANZINGER: Okay. And just one  
8 last comment. And I may be off base here. But I remember  
9 a reference earlier to the earlier attempt at the three  
10 bin and got resistance from customers or people in the  
11 community.

12 You know, I mean we've seen that before, because  
13 I'm assuming it's going to be -- so it's more expensive  
14 with the three bin for the customers than it -- but  
15 throughout communities across California, I mean -- and  
16 this is not you. I mean this is city council members. So  
17 maybe I'm taking a swipe at a group of people who aren't  
18 here right now. But all over communities -- all over the  
19 state these local leaders have had to basically exert the  
20 courage that it took to do that instead of caving in.

21 So I don't know whether they bear some of the  
22 responsibility here, that this has been attempted before  
23 and you get a little blow back when you, you know, float  
24 the trial balloon and, "okay, we're not going to go  
25 there." But, you know, political courage is not political

1 suicide, right? That's the line? And it's been done and  
2 it was -- and, you know, it's hard to avoid consequences  
3 for that. I mean the failure to do that in years past  
4 obviously has come home to roost, and these programs that  
5 could have been in place long ago, I mean just because  
6 there just wasn't the intestinal fortitude to put it in  
7 place. I'm speculating.

8 BOARD MEMBER PEACE: Just like you were saying  
9 with programs that could have been in place before,  
10 because in January of '03 when they got their 1066 time  
11 extension the city said that it would have a C&D ordinance  
12 in place by the first quarter of that year. And now it's  
13 just happening five years later. And it's just such a  
14 shame that you totally missed the housing boom. You know,  
15 maybe if you would have done that, you wouldn't be here  
16 today.

17 CHAIRPERSON BROWN: Lorraine.

18 COMPLIANCE, EVALUATION & ENFORCEMENT DIVISION

19 CHIEF VAN KEKERIX: Well, thanks to Trevor O'Shaughnessy's  
20 quick thinking, I have information to answer Jeff  
21 Danzinger's question.

22 Our latest biennial review is for 2003-2004, and  
23 he's got the numbers just about nailed. We're at 69  
24 percent have a Board-approved biennial review or a good  
25 faith effort. And that leaves 31 percent of the

1 jurisdictions on time extension, alternative diversion  
2 requirements, or compliance orders.

3 BOARD MEMBER CHESBRO: Oh, so you were able to  
4 answer his question but not mine.

5 (Laughter.)

6 CHAIRPERSON BROWN: It was your question  
7 rephrased.

8 BOARD MEMBER CHESBRO: Except that wasn't exactly  
9 my question though. Because my question was within those  
10 who are in the 31 percent, what is the range of levels of  
11 diversion -- you know, I mean what's the balance of --  
12 so it wasn't exactly the same question. And I'm only  
13 kidding. If you don't have -- I mean if that would take  
14 more research, that's completely understandable.

15 COMPLIANCE, EVALUATION & ENFORCEMENT DIVISION

16 CHIEF VAN KEKERIX: We'll see what we can do.

17 BOARD MEMBER CHESBRO: I was mostly just trying  
18 to get a broad picture, not necessarily detailed  
19 statistics. But it's helpful to know -- I mean Jeff's  
20 question was a good one too.

21 (Laughter.)

22 CHAIRPERSON BROWN: And, you know, what strikes  
23 me actually -- and I'm glad you brought it up, Wes -- is  
24 that, you know, we do have a number of jurisdictions that  
25 are on time extensions, you know, we've acknowledged that

1 939 passed more than 17 years ago, and we've had a long  
2 time to implement. And I see the Board's implementation  
3 review of programs over the years as evolving. And, yes,  
4 we have jurisdictions that are making good faith effort or  
5 are on time extensions. But as we get farther and farther  
6 out from the actual deadline, I think we need to look with  
7 a much stronger microscope. And although you're at or  
8 anticipating that you're at 45, 48, percent, the  
9 microscope is much stronger at this point in the  
10 implementation of 939 than it was back in 2000 or 2001.  
11 And it has to be. Technology's changed, what other  
12 jurisdictions have done has changed, what we know works  
13 has changed.

14 BOARD MEMBER CHESBRO: Markets have improved.

15 CHAIRPERSON BROWN: Markets have improved. I  
16 think that Member Peace had an excellent question. And I  
17 know, Mike, you struggled answering it, because there  
18 really isn't an answer. How would you ask for leniency to  
19 your peers? And, you know, we are going to probably be  
20 asking that question of every jurisdiction that comes up  
21 here that fails a compliance order or who asks for another  
22 time extension. What are you going to say to a smaller  
23 jurisdiction that made the tough decisions five years ago  
24 when they asked originally for a 1066 time extension?  
25 They made those decisions. "Gosh, you know, multi-stream



1 isn't working for us" or "our numbers have gone down. We  
2 need to look at new programs. We need to look at  
3 opportunities. We need to do these things." And I think  
4 that you've missed the boat. And, you know, I think that  
5 from my perspective, my microscope is a lot sharper this  
6 year than it would have been last year or four years ago  
7 when the original time extension was requested.

8           And, you know, I think Jeff hit the nail on the  
9 head as well. I think -- you know, there's a tremendous  
10 opportunity here. And I am, you know, pleased to see that  
11 you're engaging in the process now. And whether it is the  
12 heat or the light, who knows. But whatever it is, you  
13 know, we hope that your numbers do, you know, rebound up  
14 to 56, 57 just in the next couple of years so that you get  
15 to 65 and beyond after that.

16           But, you know, my microscope is a lot sharper in  
17 review of this than maybe it would have been three or four  
18 years ago.

19           Any questions, comments? Process?

20           I think the Board will briefly adjourn for closed  
21 session. And then we will go immediately to a lunch break  
22 and reconvene in an hour. Is that enough? Approximately  
23 an hour, at 2:30.

24           Will that give you enough time, depending on how  
25 long we deliberate in closed session, to be able to offer

1 Cerritos --

2 CHIEF COUNSEL BLOCK: Without knowing exactly how  
3 long the discussion in closed session will take, we ought  
4 to be able to at least issue a preliminary decision with  
5 the idea that we'll provide the specific written decision  
6 within --

7 CHAIRPERSON BROWN: -- 48 hours?

8 CHIEF COUNSEL BLOCK: -- 30 days, or we could  
9 actually do it faster if you wanted.

10 CHAIRPERSON BROWN: Okay. Well, I think that we  
11 can probably commit to you that we can give you a  
12 preliminary decision on determination before 3 o'clock  
13 today. I mean if we come back at 2:30 and you're not  
14 quite ready, then we can do it before 3 o'clock, and then  
15 a final decision within 48 hours to 30 days, something  
16 like that.

17 CHIEF COUNSEL BLOCK: Whatever the Board wants me  
18 to do.

19 BOARD MEMBER PEACE: Madam Chair, I'm just  
20 wondering, since the cafeteria closes at 2, we'll probably  
21 only have time to go to the cafeteria. Could we grab  
22 something to eat and then go into closed session?

23 CHAIRPERSON BROWN: Sure. That's a great idea.

24 We'll grab something to eat and we'll meet in  
25 closed session at 2 o'clock, and then we'll issue our

1 decision by 3.

2 (Thereupon a lunch break was taken.)

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1 AFTERNOON SESSION

2 CHAIRPERSON BROWN: So I think we'll go back into  
3 session.

4 I'll ask Kristen to call the roll.

5 BOARD SECRETARY GARNER: Chesbro?

6 BOARD MEMBER CHESBRO: Here.

7 BOARD SECRETARY GARNER: Danzinger?

8 VICE CHAIRPERSON DANZINGER: Here.

9 BOARD SECRETARY GARNER: Mulé?

10 Peace?

11 BOARD MEMBER PEACE: Here.

12 BOARD SECRETARY GARNER: Petersen?

13 BOARD MEMBER PETERSEN: Here.

14 BOARD SECRETARY GARNER: Brown?

15 CHAIRPERSON BROWN: Here.

16 Any members have any ex partes to report?

17 Sounds like everybody is up to date.

18 Just as a matter of housekeeping. For anybody  
19 who's interested, I'll just let you know that remaining on  
20 the Board calendar for today was Item 10, Item 11, and  
21 final decision on Item 6.

22 Once we get a decision on Item 6, we'll interrupt  
23 whatever we're doing to go to that.

24 Item 10 will be put over to the February full  
25 Board meeting for consideration at the full Board meeting

1 in February, as there's not a Strategic Policy Development  
2 Committee in February.

3 And we will go to Item 11.

4 Pardon me?

5 I think they have name plates and computers over  
6 there. They're probably okay.

7 So you guys just stay in place. If you guys want  
8 to go ahead and start. Once we get stuff and a natural  
9 break, we'll take a natural break and go back to 6.

10 (Thereupon an overhead presentation was  
11 Presented as follows.)

12 ASSISTANT DIRECTOR MYERS: I'll wait for the  
13 PowerPoint to come up here.

14 CHAIRPERSON BROWN: Okay.

15 ASSISTANT DIRECTOR MYERS: Actually I don't need  
16 that to start off.

17 You know which one to pull up?

18 CHAIRPERSON BROWN: No. And do you want me to  
19 introduce you?

20 This is an update to the Board on implementation  
21 of Strategic Directive 11, the Public Outreach and  
22 Environmental Education Initiative.

23 ASSISTANT DIRECTOR MYERS: Great. Thank you  
24 Chair Brown.

25 Item 11. I'm fortunate to share this item with

1 Mindy Fox from our Education and Environment Initiative  
2 Program here. So she'll be speaking on 11.2 and 11.3, and  
3 I'll be directing my response -- or comments to 11.1 only.

4           The SD 11.1 -- now I lost my place already. In  
5 regards to SD 11.1, this item first calls for the  
6 establishment of a baseline for which we can measure the  
7 Board's outreach efforts. Last week I provided the  
8 Strategic Policy Committee with an update to the  
9 Board-sponsored Consumer Attitude and Behavior Study.  
10 This study acts as that baseline.

11           As I stated at the Committee meeting, this study  
12 confirmed many thoughts on public opinion and helped drive  
13 many others. A quick summary from last week, some of the  
14 items that OPA pulled out from the survey, first it is  
15 important that we make the link of waste reduction and  
16 recycling to climate change with an emphasis on waste  
17 reduction. Our discussions that followed my briefing last  
18 week seemed to confirm the Board's concurrence on this as  
19 well.

20           Next, in an effort to promote waste reduction  
21 emphasize the need to buy recycled and buying less as  
22 another option. Again, only 6 percent of those polled saw  
23 this as an effort to reduce waste. Waste reduction will  
24 be a primary focus on OPA's outreach efforts as we see the  
25 need to find in our study.

1           Next, promote more curbside recycling  
2 opportunities as well as multi-family recycling  
3 opportunities. The study made a strong link to the fact  
4 that consumers aren't recycling when it's not convenient.

5           Also, educate consumers and residents on  
6 household hazardous waste, what it is, and where to get  
7 rid of it. Again, the concern was responses such as 46  
8 percent stating they don't have that type of waste and  
9 another 11 percent stating it goes out with the regular  
10 trash.

11           And, lastly, we saw a strong need to get back to  
12 some of the basic issues of what can be recycled. It is  
13 shown in the study that consumers are still focused on  
14 bottles and cans and newspapers.

15           The study was the first phase of implementing  
16 Strategic Directive 11.1. Our next step was to not only  
17 use this study to create this baseline, but to use it to  
18 develop a workplan from which OPA and the Board can focus  
19 and implement its outreach and education efforts.

20           We combined what we learned from this study along  
21 with the Board's adopted strategic directives to develop  
22 an approach in our efforts. What we concluded and what we  
23 walked away with were two primary approaches, and we had  
24 had kind of a secondary or supporting approach.

25           Our first approach with an overall need to get

1 back to basic messaging, OPA recommends making a stronger  
2 commitment to conduct outreach with a -- with and through  
3 our local jurisdictions. With the reorganization of the  
4 new LAM group, the Board is in a better position to more  
5 actively participate in the jurisdiction's efforts. These  
6 efforts could consist of developing materials, templates,  
7 and fact sheets to creating PSAs and advertisements for  
8 locals to use as well as working with businesses and other  
9 agencies. This approach will also focus on working with  
10 local leadership to promote programs or educate on the  
11 issues and ideas.

12           The local jurisdictions are really in the best  
13 place to educate and inform the residents, and OPA's in  
14 the best place to provide the needed support.

15           The second track that OPA would like to pursue in  
16 getting back to our basic messaging is driving that  
17 message. As I said, there are basic messages that don't  
18 seem to be sinking in. Our goal would be to get back to  
19 delivering our message statewide to reach the largest  
20 audience in the most effective way possible.

21           Our current campaigns and efforts are showing  
22 success, and we're making headway. But as we've discussed  
23 here before, it takes a great deal of money to be able to  
24 do these kind of campaigns effectively. What I'm  
25 proposing is to utilize what outreach funding we have to



1 distribute our message straightforward. I'd like to focus  
2 OPA's efforts in creating and distributing public service  
3 announcements and working with media outlets statewide  
4 where we can better control our message in both content  
5 and delivery.

6           We'll be looking at opportunities to utilize  
7 existing efforts, partnerships, and free media where  
8 possible. This will be made more evident in the workplan  
9 that I'll discuss in a moment.

10           In support of these two primary approaches we  
11 have added the approach to emphasize the link between  
12 waste reduction and recycling with climate change. The  
13 promotion and education of climate change in our efforts  
14 in the reduction of greenhouse gases will be a task all of  
15 its own. However, OPA will be taking the additional  
16 charge of educating on how our efforts are continually  
17 supporting climate change efforts.

18           Along with these approaches, OPA has developed  
19 some guiding principles that will help develop our efforts  
20 and keep them focused.

21           And, you know, I totally forgot to move the  
22 slides forward in all of this. So I apologize for that.  
23 And in the time that we have, it's probably a good thing.

24           But I will go into other guiding principles real  
25 quick. And these are just a few of them that we -- OPA

1 came out with. And they're pretty basic:

2 Raise awareness. That's our overall goal in all  
3 our outreach efforts.

4 Establish credibility for the Board and for our  
5 programs.

6 Build relationships wherever possible.

7 Be physically responsible. We want to make sure  
8 we're providing the most effective and efficient use of  
9 our resources.

10 Keep the messages simple. After all, we're  
11 reaching out to the general public in most cases.

12 Make information accurate.

13 And then making it timely.

14 Now, with the approach and some guiding  
15 principles developed, OPA began creating a workplan from  
16 which we hope to capture the vision of the Board, its  
17 mission, and get us working on the next 50 percent in  
18 developing markets, promoting programs, and change  
19 behavior.

20 Currently a draft workplan is being run through  
21 program staff for their input and insight into OPA's  
22 potential efforts. Our goal is to have program's feedback  
23 by the end of the month, at which time OPA will meet again  
24 to begin creating a more detailed workplan with specific  
25 tasks, timelines, and funding needs. This will be brought

1 back to the Executive Director where we'll refine that  
2 even further.

3 I would like to propose at that time, which I'm  
4 expecting should be early February to mid-February  
5 sometime, to bring this Board to the Chair's office for  
6 further refinement and feedback. I'd also be happy to  
7 meet with each of the individual Board offices to go over  
8 the details of that workplan as well.

9 Well, we're going to skip that.

10 In considering the time that we have, I'm not  
11 going to go into all the details of the workplan at this  
12 time. And, like I said, I'd be happy to meet with each of  
13 the individual boards. But it's laid out in such a way  
14 that it's going to be easier -- much easier for everyone  
15 to follow. It's going to provide some timelines and  
16 utilize all the approaches and guiding principles.

17 So with that said, and rushed through that kind  
18 of quick, but if there are questions, I'd be happy  
19 entertain them.

20 CHAIRPERSON BROWN: That was a speed reading  
21 exercise, I think.

22 VICE CHAIRPERSON DANZINGER: What was that middle  
23 thing again?

24 (Laughter.)

25 CHAIRPERSON BROWN: I missed the word between.

1           Without the workplan, I think it would be a good  
2 idea to just circulate the workplan when we circulate the  
3 documents after we've had a chance to review them and --

4           ASSISTANT DIRECTOR MYERS: We could certainly do  
5 that.

6           CHAIRPERSON BROWN: Okay. Does anybody have any  
7 questions for Jon's part of the presentation?

8           Mindy, I'm going to hold you off for just a  
9 minute while I read the tentative decision that the Board  
10 made in regard to Item 6.

11           This is a tentative decision of the Board. And  
12 it is our intention to do the final decision and send that  
13 within the next couple of weeks. Right?

14           CHIEF COUNSEL BLOCK: You told me a week. So --

15           CHAIRPERSON BROWN: Oh, a week. Okay.

16           In about a week's timeframe.

17           The Board has determined based on the evidence  
18 presented in today's hearing that the City of Cerritos  
19 failed to comply with the Board's Compliance Order No.  
20 IWMA BR07-02 and failed to make a good faith effort to  
21 implement its Source Reduction and Recycling Element.

22           Accordingly the Board determined to impose  
23 penalties in the following amounts pursuant to Public  
24 Resources Code Section 41850:

25           First, impose a one-time penalty amount for

1 failure to meet the terms of the compliance order in the  
2 amount of 82,800. This was calculated using the penalty  
3 amount of \$3600 per day from the date -- from the first  
4 date after the compliance order's deadline for full LAP  
5 implementation, which was January 1st, 2008 through  
6 today's date.

7           Second, impose an additional potential daily  
8 penalty amount of \$3600 per day from today's date until  
9 March 31st, 2008. But if the city fully implements all of  
10 its LAP tasks by that date, the second amount would be  
11 waived.

12           Third, to ensure continued full program  
13 implementation, impose an additional potential penalty  
14 amount of \$3600 per day after that date if the city fails  
15 to fully implement or to continue to implement its LAP  
16 through March 31st, 2009.

17           Determinations as to whether the city has fully  
18 implemented its LAP tasks for any of these reasons will be  
19 delegated to the Executive Director. If the Executive  
20 Director determines that the city has failed to fully or  
21 to continue to fully implement its LAP tasks, the  
22 Executive Director will notify the city of this  
23 determination and collect penalties for noncompliance  
24 accruing on or after a date identified by the Board.

25           A formal written decision embodying the above

1 shall be served by next week.

2 Okay. That's it.

3 Thank you very much, staff; City of Cerritos,  
4 thank you.

5 And we will move back to continuation of Item 11.

6 Mindy.

7 VICE CHAIRPERSON DANZINGER: One quick comment  
8 before you move to Mindy.

9 CHAIRPERSON BROWN: Quick comment.

10 VICE CHAIRPERSON DANZINGER: One more comment  
11 before we move from you, Jon, over to Mindy, because I was  
12 just curious about this.

13 It seems one of the things that distinguishes EEI  
14 from a lot of the other issues that you're dealing with is  
15 that maybe there's a whole lot more free media potential  
16 in that issue because of just the amount of natural  
17 interest in both of those issues and then you fuse them,  
18 you know.

19 So I'm just curious. How much do you anticipate  
20 building that into the workplan, a strategy for maximizing  
21 free media at some point along the line?

22 ASSISTANT DIRECTOR MYERS: Sure. And I think  
23 that's something that Mindy and I were going to sit down.  
24 She has a copy of this.

25 On Friday we have a meeting. See, we're already

1 ahead of it.

2 I mean the whole idea behind this workplan is to  
3 work with program staff. You know, all the executive  
4 staff have a copy of this workplan and it's going through  
5 that process now to make sure that we're going to be able  
6 to capture everything. And the idea is to sit down with  
7 Mindy and look for those opportunities to figure out where  
8 we can provide OPA service in looking for media events,  
9 for media opportunities to get out in front of Op-Eds and  
10 article pitching and the entire media relations.

11 VICE CHAIRPERSON DANZINGER: Terrific.

12 Okay. Thanks.

13 ASSISTANT DIRECTOR FOX: And, Jeff, I'll add on  
14 to that the reverse side of the coin. I'm real interested  
15 in the key messages that Jon will take from the entire  
16 agency and brand, embedding them in the curriculum. So  
17 we'll hit it from both sides.

18 VICE CHAIRPERSON DANZINGER: Okay.

19 ASSISTANT DIRECTOR FOX: So on that note, for the  
20 record, I'm Mindy Fox, Assistant Director of the Office of  
21 Education and the Environment. And I'm here to report the  
22 subdirectives that pertain to my program with Strategic  
23 Directive 11. And in the interest of time -- and I know  
24 folks need to head for an airport -- I'll do a shortened  
25 version of my presentation. And I just want to point out

1 usually Elliot is reserved for the last spot. I'm in good  
2 company. So I feel honored to be batting last here.

3 (Laughter.)

4 --o0o--

5 ASSISTANT DIRECTOR FOX: Okay. A little bit of  
6 very quick context.

7 The law requires us to do many things. But the  
8 current focus of EEI is clearly the development of the  
9 curriculum -- oops, I went a little too fast -- which is K  
10 to 12. We're tackling 150 units, as you heard in Mark's  
11 annual accomplishment report today. And we are focusing  
12 them on science and history/social science standards, with  
13 supporting English language arts where appropriate.

14 --o0o--

15 ASSISTANT DIRECTOR FOX: And the first  
16 subdirective is to work with the State Board of education  
17 to get the EEI curriculum approved. And the strategic  
18 directive actually says September 2009. We're pushing  
19 that date out for a couple months for good reasons that  
20 I'll get to later in the presentation.

21 A real quick update. Progress is great. It's a  
22 bit painful at times, but we're making really good  
23 headway. We have over half of the units in development.  
24 As mentioned earlier today, that means they're in the  
25 writing phase - editing, reviewing, graphic design,



1 printing, field testing, something like that. We have 19  
2 out of 20 school districts under contract for field and  
3 pilot testing. And we have a really comprehensive review  
4 system set in place. We are paying both content and  
5 education experts to review every unit. And we also have  
6 numerous list serves by various outside groups. Each  
7 unit's going over to 2,000 people now for review.

8           So we get those comments back, we'll be making  
9 revisions accordingly. And we have ten curriculum units  
10 that have gone out for field testing.

11                               --o0o--

12           ASSISTANT DIRECTOR FOX: And kind of the big  
13 milestone we made through -- the big hoop we made lately  
14 is we went to the Curriculum Commission, formerly called  
15 the California Curriculum Development and Supplementary  
16 Materials Commission, and we submitted our evaluation  
17 criteria, methodology, evaluator application, and  
18 timelines for the independent review panels. The  
19 Curriculum Commission approved them, forwarded their  
20 approval to the State Board of Ed. And then just earlier  
21 this month the State Board of Ed approved all of these  
22 items. And it sets in place and in common agreement our  
23 timeline for about the next 24 months.

24           And Jack O'Connell did a press release the next  
25 day supporting SBE's action and getting some free media.

1                               --o0o--

2               ASSISTANT DIRECTOR FOX:  So I'm just going to run  
3  you through some really quick slides, because not everyone  
4  has had the advantage of seeing what it is we're creating.

5               Here's nine of the ten field-tested units.  The  
6  big numbers or letters in the upper left-hand corner refer  
7  to the grade, and then there's a science or a  
8  history/social science standard articulated right  
9  underneath that.

10                             --o0o--

11              ASSISTANT DIRECTOR FOX:  This is a cover of a  
12  unit for first grade.  And this one is all about a science  
13  standard where kids need to look at teeth and ascertain  
14  how and what an animal eats.

15              And then there's some interplay in the lessons  
16  about human interaction on environments and habitats and  
17  animals and what they eat and how they eat.

18              So it gets rather complicated conceptually, but  
19  it's played out in these units in a very great appropriate  
20  manner.

21              And I just threw these in here to give you a feel  
22  for really what is kind of the life behind us implementing  
23  the strategic directive.

24                             --o0o--

25              ASSISTANT DIRECTOR FOX:  These are what we call

1 big books. Big books are used by teachers in the  
2 classroom for the lower grades. It's a reading tool for  
3 kids to learn how to read and learn the content. And the  
4 one on the right -- and I have some of the show and tell,  
5 which I won't wave around. But if you want to come see  
6 them afterwards, you're welcome to.

7           The one on the right has already kind of -- had a  
8 little claim to fame when we were in Washington DC meeting  
9 with National Geographic. We went to meet with people at  
10 the National Marine Sanctuary. They're interested in  
11 funding possibly production of 200,000 of these when it  
12 comes time to roll them out to the appropriate grades.

13           So now that we have some show and tell, we're  
14 making headway linking it to those who have money for  
15 appropriate uses.

16   --o0o--

17           ASSISTANT DIRECTOR FOX: This is -- it's a little  
18 workbook that we made for kindergarten. And it highlights  
19 five ecosystems in California. And it's used through the  
20 lesson -- throughout the whole unit for kindergartners to  
21 learn the five ecosystems of California. And so then they  
22 did art about the different terrain and animals and plants  
23 and everything. And it got very good feedback from our  
24 field testing teachers because it was hands-on, it was  
25 topical, it was interesting, it's fun, all that good

1 stuff.

2 --o0o--

3 ASSISTANT DIRECTOR FOX: Not great pictures, but  
4 you can see the art of some of the kids. We were lucky  
5 enough that one of the teachers actually sent her  
6 classroom materials back to us. And we didn't ask for  
7 that. And, in fact, if somebody had asked me in the  
8 beginning, "Do you want them?" I would have said no, I'll  
9 just be buried in the stuff. Actually now I really want  
10 it and we're asking for it, because it's making for us  
11 very real what those students are testing in the  
12 classroom.

13 --o0o--

14 ASSISTANT DIRECTOR FOX: And this is one of the  
15 cutest kindergartners I know, using one of our workbooks  
16 in a classroom.

17 --o0o--

18 ASSISTANT DIRECTOR FOX: This is also called a  
19 work -- this a student resource workbook for a different  
20 unit.

21 I should actually go to my notes and tell you  
22 what these units are. I was going to skip this. But  
23 you're looking interested enough, I'm going to do it.  
24 Thank you.

25 This is for a kinder unit called "A Day in My

1 Life." And this unit teaches that earth is composed of  
2 land, air, and water; and how to identify resources from  
3 earth that are used in everyday life; and to understand  
4 that many resources can be conserved. So even at the  
5 kinder level we're making it very real for them, linking  
6 it to their daily life. And through their lessons they're  
7 learning that hands-on.

8 And this workbook is used across all the lessons.  
9 And their culminating activity with this workbook is to  
10 draw a picture and articulate one thing they can do in  
11 their life to help conserve resources.

12 So we definitely are making it very real for  
13 these students.

14 --o0o--

15 ASSISTANT DIRECTOR FOX: This is a slide of,  
16 again, another page in a kinder unit. And this is from  
17 that same unit about resources. And they play bingo in  
18 this game. So there's different bingo cards and there's  
19 little bingo statements, so -- with very short statements,  
20 so those early readers are actually learning some English  
21 language art, i.e., how to read, while they play bingo and  
22 learn about resources in California, where they come from,  
23 and how to conserve them.

24 Oh, and I should be pointing out the obvious  
25 here.

1           Everybody knows we have a contract with National  
2 Geographic. And many of these photos are from national  
3 Geographic or from their contractor that's a sub to  
4 National Geo that's under contract with us. And the  
5 images are being selected obviously to, you know, hit the  
6 nail on the head content-wise. But we want them to be  
7 striking and engaging and poll those students in. And I'm  
8 hoping, by seeing these visuals, I'm making the point that  
9 this working. We're really happy so far with our  
10 relationship with National Geographic and how it is  
11 playing out.

12                               --o0o--

13           ASSISTANT DIRECTOR FOX: These are just a couple  
14 worksheets from a first grade unit. And it's the first  
15 grade unit about teeth. And that didn't play really well  
16 when it's shot up big on a wall.

17           But if you look really carefully, if you're in  
18 first grade teeth is t-e-t-h and claws is c-l-o-s. And  
19 they're really adorable. But the kids were getting it.  
20 And they were completely spelling phonetically and getting  
21 the concepts.

22                               --o0o--

23           ASSISTANT DIRECTOR FOX: This is a second grade  
24 unit. And the two smaller items to each side are what we  
25 call readers -- leveled readers. And, again, for the

1 primary grades these are tools that are being used in the  
2 classroom to convey our content and also help a child  
3 learn how to read.

4           And this second great unit -- where's my  
5 notes? -- it's called "From Field to Table," and it  
6 describes food production and consumption, long ago and  
7 today, and it includes the roles of farmers, processors,  
8 distributors, weather, and land and water resources. It  
9 uses fictional and real-world examples to help students  
10 realize the effects of food production on our natural  
11 resources. So, again, it brings it to life.

12           And those small books, they are also used to  
13 support an English language art standard. And it helps  
14 tell the stories of food production and the interactions  
15 of people and their jobs, in this case raising food, and  
16 their interaction with natural systems.

17                               --o0o--

18           ASSISTANT DIRECTOR FOX: These are photo cards  
19 from a second grade unit that teaches students that both  
20 plants and animals have predictable life cycles. And in  
21 this case I put this slide in here to show you that  
22 they -- after they read -- the students read something  
23 called "The Tall Pine and The Big Eagle," students use  
24 these photo cards. And there's a whole series of them.  
25 They cut them up. They mix them all up. And then they

1 have to sequence the life cycle of a Bald Eagle. And the  
2 photos again are very striking and engaging, and it's  
3 teaching certain concepts through the use of the Bald  
4 Eagle. And it's a good activity because kids have to work  
5 individually, then in groups. There's a homework  
6 assignment.

7           So pedagogically there's lots of value to how  
8 this plays out. And, again, the feedback from field  
9 teachers has been very positive. They're loving the  
10 images that we're giving them. We're giving these  
11 materials to the teachers in classroom-ready sets. And  
12 they're just ready to use them. So it's all been very  
13 positive.

14           And in this case, this is a really prime example.  
15 Many kids are not going to have the opportunity to take a  
16 field trip and see Bald Eagles in the wild. Many kids  
17 won't even have the opportunity to take a field trip and  
18 see pine trees. So we're bringing that to them. I mean  
19 in a place like L.A. that is really going to matter a lot.

20                               --o0o--

21           ASSISTANT DIRECTOR FOX: This is from a 6th grade  
22 unit that's a history and social science unit. And in  
23 this unit, students analyze the geographic, political,  
24 economic, religious, and social structures of the early  
25 civilizations of Mesopotamia, Egypt, and Cush. And



1 students trace the development of agricultural techniques  
2 that permitted the production of economic surplus and the  
3 emergence of cities as centers of culture and power.

4           And in this activity students continue to link  
5 availability of resources with practical human needs.  
6 They see that the combination of available natural  
7 resources and human ingenuity in using those resources  
8 gave rise to ancient civilizations and ultimately to the  
9 civilization they live in today.

10           It always is linked to our reliance on natural  
11 resources, our interactions with them, our use of them,  
12 and our conservation of them. So this is just 4 of 16  
13 photo parts that are used in that particular activity.  
14 And, again, this activity is built so kids do some things  
15 individually, then they do a different activity in work  
16 groups, they have a reflection journal that they do some  
17 homework at home, and it all gets tied together.

18                               --oOo--

19           ASSISTANT DIRECTOR FOX: The next two slides  
20 convey our first posters. And these two posters actually  
21 are from a second grade unit. I don't even know the name  
22 of that one.

23           Yeah, I do. "The Earth Rocks." And in this case  
24 the two posters are put on a wall, and then there's some  
25 habitat cards that kids place around the posters and make

1 the linkage between where animals and plants live in  
2 certain ecosystems and habitats.

3 --o0o--

4 ASSISTANT DIRECTOR FOX: As mentioned, under  
5 contract with National Geographic, one of their  
6 deliverables will be 12 wall maps. And these are huge. I  
7 wish I'd brought the measurement actually. So I'll show  
8 you. They're this big by this big. Okay? Really large.  
9 And so the slide doesn't convey it, but I wanted you to  
10 get a flavor of how they're shaping up. The content is  
11 incredible. We have the head cartographer at national  
12 Geographic working on these. And the imagery's beautiful  
13 and they're making them all California specific, under a  
14 lot of direction of staff and our principal contractor,  
15 Jerry.

16 So these will be one-of-a-kind deliverables and  
17 then used to support many lessons and many grades across  
18 many of the units.

19 --o0o--

20 ASSISTANT DIRECTOR FOX: So that was a summary of  
21 where we are on Subdirective 11.2, getting the curriculum  
22 done and getting it to SBE.

23 The next two subdirectives are financial related.  
24 And 11.3 states that we need to secure participation in  
25 monetary support from state agencies. And I'm happy to

1 report on this front our efforts are actually coming to  
2 fruition.

3 I lost my notes there.

4 Our goal with that subdirective is 250,000. And  
5 I'll cut to the chase. We've raised over a million  
6 dollars from state agencies. And Department of Toxic  
7 Substances Control actually deserves the primary pat on  
8 the back. They are routinely taking their penalty --  
9 fractions of their penalty money and dropping it into the  
10 Environmental Education Account.

11 The other BDOs could follow that role modeling.  
12 And they are on the verge of doing so. I hear we're  
13 actually days away of ARB popping some money in that  
14 account.

15 Thanks to Rosario, our ex-chair over at SCSA,  
16 they have contributed already this fiscal year \$302,000  
17 and are contributing next year another 302.

18 And there's been some prior contributions. The  
19 Water Board had done 400,000 in the past. The Energy  
20 Commission did a hundred thousand last year.

21 And so it totals \$1,138,000 to date. And it will  
22 go up by another 302,000 next fiscal year.

23 So I'm feeling better on the state agency side.  
24 There is room for improvement. It needs to be more  
25 routine for those BDOs to place -- to contribute to the EE

1 account. But we're making headway.

2 And then two other things worth mentioning. The  
3 Department of Water Resources has very graciously and  
4 generously loaned us a full time graphic designer.  
5 They're paying his cost, but we're using him. And I think  
6 that's really incredible. It's almost unheard of  
7 actually. And it was all based on a request and them  
8 saying, "Sure, we're happy to help." So this is their  
9 in-kind donation.

10 And the fellow, Mark McCourt, just started last  
11 week. So wish him well if you see him. Okay?

12 And, lastly, OE staff, we submitted a grant to  
13 the U.S. EPA for funds. And we will not hear for a couple  
14 months if we're funded. But I'll be happy to give you the  
15 news as we hear more.

16 And then our last subdirective is 11.4, that  
17 suggests we secure at least 50 percent of the total  
18 funding for EEI public outreach and education from private  
19 entities. And I am happy to report that our first goal in  
20 the strategic directive on this one was that we would  
21 submit a grant proposal by January of 2008. Heal The Bay  
22 got their first grant proposal out the door in December.  
23 So we did meet that commitment. We haven't heard a word,  
24 so I have nothing to report. But we have a follow-up  
25 phone call, kind of our internal team, with National Geo,

1 Heal The Bay, et cetera, on Friday, and I hope to hear  
2 word by then.

3           And I don't think you really -- I'm happy to tell  
4 you what that grant is asking for if you want those  
5 details. It's across several related issues. Okay? It's  
6 largely to fund a strategic planner that would do some  
7 investigation about how to hold money, contributions, and  
8 also -- because there's a little question about should  
9 money always go into the Environmental Education Account  
10 or is there a better way to do that. And come up with a  
11 fund raising plan, a big one.

12           And Heal The Bay is very responsible for setting  
13 up a meeting and a relationship with Irvine Museum. And  
14 Joan Irvine-Smith of the Irvine Foundation and the Irvine  
15 Museum was absolutely incredible. We had a meeting. And  
16 she made a commitment on the spot that every image they  
17 have in their numerous coffee table books and in their  
18 museum is available to us for placement in our EEI  
19 curriculum units at no cost. And they have relationships  
20 with other museums and other providers that we don't have.  
21 They will help broker those kind of agreements if  
22 necessary.

23           And she was really incredible, incredibly  
24 gracious. And their museum, though it is not huge in  
25 Irvine, it's apparently the only museum in California

1 that's well known dedicated to the preservation display of  
2 California impressionism paintings of a certain era. And  
3 the importance of that is a lot of these images can be  
4 used to convey a "now" and a "then" story in our  
5 curriculum units. And that's her mission. Her mission is  
6 to educate the public about the environment and the  
7 changes to our environment through population growth and  
8 urbanization, through now and then of paintings.

9           So it was pretty remarkable. And Heal The Bay is  
10 responsible for getting that in place.

11           Then I really want to point out again how well  
12 things are going with National Geographic. You know,  
13 we're on record. Everybody -- you actually approved the  
14 contract. We have a million dollar contract with National  
15 Geo. They are probably matching dollar for dollar that  
16 contract with in-kind support. They have vice presidents  
17 of divisions, the executive vice president of the entire  
18 National Geographic donating their hours and their  
19 brilliance.

20           They are donating Season 2 and 3 of what they  
21 call the Wild Chronicles Video Series. And these are  
22 video clips that we can link to units and give digitally  
23 to the teachers and use in classrooms. In the contract  
24 they were always supposed to give us Season 1, but they're  
25 volunteering Season 2 and 3. And probably by the time

1 we're done Season 4 will be done and they'll give us those  
2 too.

3           They're exceeding their commitments on the maps,  
4 and the list just goes on.

5           So National Geographic, it's been pretty amazing.  
6 And we're definitely making plans beyond the scope of the  
7 contract. We're talking about possibilities of a kids'  
8 magazine out of their kids' magazine publishing division  
9 that's California specific.

10           We've met with their school public -- they're  
11 called school pubs, the division head of that, linking  
12 some of their materials to EEI, or EEI content being put  
13 in there -- in their materials. We're investigating lots  
14 of options, and they're very, very open to possibilities  
15 in synergy. It's pretty exciting.

16   --o0o--

17           ASSISTANT DIRECTOR FOX: I'll give you the bad  
18 news after this one.

19           This is just an example. These are some of the  
20 coffee table books that Joan Irvine-Smith sent us home  
21 with. And she's a pretty prolific author and has written  
22 many of these books, that are then sold in their museums.  
23 And many of the books have the paintings in famous, famous  
24 art museums and on their walls digitally reproduced in  
25 their books, which is great news for us, because that

1 means they're digitally available for our publications.

2 --o0o--

3 ASSISTANT DIRECTOR FOX: So I just want to sum up  
4 where we are, what's happening next.

5 We're still in the midst of developing the units,  
6 and we will do that through fall. Field testing is  
7 underway. Pilot testing, which is a different way to test  
8 our units, will occur at the completion of field testing.  
9 And it will all be wrapped up in about a year from now.

10 In the spring the Curriculum Commission  
11 Independent Review Panel folks will be selected by  
12 California Department of Ed and State Board of Ed. And  
13 those folks will be notified and identified in spring. In  
14 July we get them together for training and send them home  
15 with their units. And then we bring them back for  
16 deliberations. And those are the independent review  
17 panels that must be put in place, and we need their  
18 feedback before we then go to the State Board of Ed. And  
19 there's a couple hoops before you go to State Board of Ed.  
20 Our Agency secretaries need to approve it, that kind of  
21 thing.

22 So we are on target, not September 2009, to go to  
23 State Board of Ed. It will either be November 2009 or  
24 January 2010. And some of that change was dictated by  
25 when SBE meets and their need to public notice their



1 meetings the way we do, and the fact that Resources Agency  
2 Cal EPA secretaries need to also get this stuff, approve  
3 it. And some of that needs to be noticed.

4 So for safety reasons, and really we have a lot  
5 of work to do, those dates were selected by State Board of  
6 Education.

7 And that's it, unless there's questions.

8 CHAIRPERSON BROWN: Great, Mindy. Thank you very  
9 much.

10 Very impressive. Great progress. Exciting  
11 project.

12 And I saw your entire staff filed in, because  
13 they're excited about it too. It certainly helps.

14 ASSISTANT DIRECTOR FOX: Best staff.

15 CHAIRPERSON BROWN: Welcome. We actually have  
16 people who care that we're still here.

17 And, Larry, thank you.

18 Thank you.

19 Cheryl.

20 BOARD MEMBER PEACE: I just wanted to say that  
21 EEI was such a huge undertaking. And the work that Mindy  
22 and her office, all of you, have done is just incredible.  
23 I never would have dreamed when we were given this task to  
24 do that it would look like this in really such a short  
25 amount of time. I mean putting it all together has just

1   been -- your work has been phenomenal.

2               What I would like to know is how much money does  
3   the EEI need, you'd say, per year to sustain the program?

4               ASSISTANT DIRECTOR FOX:   That is actually not a  
5   figure I have at my fingertips.   But I can dig something  
6   out that could help.   Okay?

7               BOARD MEMBER PEACE:   You have a goal of how much  
8   you'd want to try to raise each year or --

9               ASSISTANT DIRECTOR FOX:   You know, every fiscal  
10   year it differs.   So I don't want to banter these numbers  
11   around carelessly.   Okay?

12              For -- and, Mark, you can weigh in here at any  
13   time.   For the curriculum development contracts, which  
14   means a principal consultant writing, editing, reviewing,  
15   we need to hire some English language development  
16   specialists, reading specialists for better advice on how  
17   to depict those kind of strategies in the units, that kind  
18   of thing.   Those costs alone are close to a million  
19   dollars over the next two fiscal years.

20              And then on top of that, believe it or not, we  
21   actually need another million for design and layout.   The  
22   contract with Cal Poly to do the layout of the units --  
23   and I don't want to bog anybody down in details, but it  
24   sounded like you need to know some of this -- they do not  
25   have the skills to get that job done.   And when they bid

1 that contract, it was bid at \$12 an hour with student  
2 part-time work. So the real costs are quite a bit higher  
3 than what anybody thought it would be when that contract  
4 was signed, and very legitimately so actually.

5 So we need more money for a new contract with Sac  
6 State to do that work. The money with Cal Poly stays  
7 there. They'll do printing, and they're quite good at it.

8 So we're talking a couple million dollars, no  
9 doubt.

10 And then way down the road -- I promise I won't  
11 say the big numbers, but we're talking more money than  
12 that for ultimate reproduction and dissemination.

13 The goal is to get these units and all the  
14 corresponding materials, the readers and the posters and  
15 all that stuff, full color copies in a classroom set to  
16 every appropriate teacher across California. We'll put it  
17 up on the web and we'll give them CDs. But there were  
18 surveys done of thousands of teachers early on and they  
19 want it in hard copy form. And it would be a shame, all  
20 this hard work and all this money, for it not to get used  
21 in the classroom. So ultimately some much more serious  
22 fund raising has to occur to get it in the classroom the  
23 right way.

24 Did that help?

25 BOARD MEMBER PEACE: Yeah. So have any of our

1 other state agencies that have given money so far, have  
2 any of them given a commitment -- an ongoing commitment at  
3 this time or is it still just like a kind of year by year?

4 ASSISTANT DIRECTOR FOX: You know what -- thank  
5 you for that, because I feel like I didn't give credit  
6 where it's due. Department of Conservation is the partner  
7 at the table right now.

8 It's not confidential. So I can talk about this?  
9 Is that a, no, it is or, yes, it's okay?

10 EXECUTIVE DIRECTOR LEARY: No, it's in the  
11 Governor's budget. We can talk about it.

12 ASSISTANT DIRECTOR FOX: Good. That's what I  
13 thought. Thank you.

14 There's a \$1.2 million offer from DOC through the  
15 BCP process and it's in the Gov's budget and it was at a  
16 budget hearing a couple Fridays ago. And I think they're  
17 very willing and interested in doing future support. They  
18 were willing to contribute much larger sums of money this  
19 last round. But due to the way the BCP system plays out,  
20 it was too many budget years out. So we could only take  
21 it in chunks.

22 So DOC, yes.

23 I think Rosario's agency is very interested. And  
24 then really the BDOs here need to get in that habit and  
25 make it an ongoing commitment, which is underway --

1 efforts are underway.

2 I'm not going to lie to anybody and say it's  
3 happened overnight or been easy.

4 BOARD MEMBER PEACE: I know Heal The Bay was kind  
5 of like taking the lead in the fund raising. What's our  
6 staff doing? Are we getting into the fund raising and  
7 looking for grants and all that kind of effort also?

8 ASSISTANT DIRECTOR FOX: Yeah. I would say for  
9 the past year we weren't. Because due to that MOU with  
10 Heal The Bay, we really were honoring the fact they said  
11 they were going to do that. My patience is a little thin.  
12 And now we are. As mentioned, we submitted a grant to  
13 U.S. EPA and now we're investigating a grant app, and  
14 we'll probably have the pre-proposal out in about three  
15 weeks to NOAA, the National Oceanic Atmospheric  
16 Administration.

17 And now it's in our workplan to actually do an  
18 assessment of other funding opportunities and pursue some  
19 of those.

20 And at the same time the grant that Heal The Bay  
21 submitted, if it gets funded, some of these can run  
22 parallel and support each other. But we're no longer  
23 waiting to see if that grant gets funded to start some of  
24 this.

25 BOARD MEMBER PEACE: Good. Great work, all of

1 you.

2 ASSISTANT DIRECTOR FOX: Thank you, Cheryl.

3 And I want to echo, I have the best staff on the  
4 planet. It's their hard work that got us where we are.

5 So hi, everybody.

6 BOARD MEMBER PEACE: Fantastic.

7 CHAIRPERSON BROWN: Any other questions,  
8 comments?

9 BOARD MEMBER CHESBRO: My only comments would be,  
10 first of all, to congratulate you for your tenacity over  
11 many, many, many years, because I know you've been working  
12 towards this for a long time, along with a number of other  
13 people.

14 Secondly, besides the product, which seems really  
15 terrific, I think one of the most amazing achievements is  
16 getting the cooperation silo to silo across these various  
17 divisions in state government. It's a remarkable  
18 achievement thus far, and it seems like it offers hope --  
19 a lot of hope for continued interagency,  
20 interdepartmental, intergovernmental, private, public  
21 partnership and cooperation. So congratulations.

22 ASSISTANT DIRECTOR FOX: Thanks, Wes.

23 CHAIRPERSON BROWN: Absolutely.

24 Okay. I think that's it. We've exhausted  
25 everyone and the agenda.

1           And this meeting is adjourned.  
2           Thank you all very, very much.  
3           (Thereupon the California Integrated Waste  
4           Management Board adjourned at 4:04 p.m.)

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1 CERTIFICATE OF REPORTER

2 I, JAMES F. PETERS, a Certified Shorthand  
3 Reporter of the State of California, and Registered  
4 Professional Reporter, do hereby certify:

5 That I am a disinterested person herein; that the  
6 foregoing California Integrated Waste Management Board  
7 meeting was reported in shorthand by me, James F. Peters,  
8 a Certified Shorthand Reporter of the State of California,  
9 and thereafter transcribed into typewriting.

10 I further certify that I am not of counsel or  
11 attorney for any of the parties to said meeting nor in any  
12 way interested in the outcome of said meeting.

13 IN WITNESS WHEREOF, I have hereunto set my hand  
14 this 11th day of February, 2008.

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